6/18.

SUPREME COURT OF THE UNITED STATES.

No. 29.

THE UNITED STATES, APPELLANT,

vs.

WILLIAM DRUMMOND.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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Langtree & O'Sullivan, Print.

Superior Court, *East Florida.*

Be it remembered, that on the twenty-second day of May, in the year of our Lord one thousand eight hundred and twenty-nine, William Drummond, by Floyd and Gibson, his attorneys, brought and filed in the clerk's office of the said court, his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

Superior Court *for East Florida.*

William Drummond *vs.* **The United States.**	Petition.

To the Honorable Joseph L. Smith, Judge of the Superior Court for the Eastern District of the Territory of Florida, and specially authorized by an act of the Congress of the United States to receive and adjudicate claims to land within the said district.

Your petitioner respectfully showeth unto your honor, that he claims title to a tract of land, containing three miles square, or five thousand seven hundred and sixty acres of land, within the eastern district of the Territory of Florida aforesaid, and within the jurisdiction of this honorable court, situate, lying, and being on the creek called Buck Branch, on the river St. Mary's.

And your petitioner, the aforementioned William Drummond, further shows, that his title to the aforementioned tract of land is derived from, and founded upon, a Spanish grant hereunto annexed and here to the court now shown, marked exhibit A. bearing date the thirteenth day of September, in the year of our Lord one thousand eight hundred and sixteen, and signed by his excellency Don Jose Coppinger, governor and commander-in-chief of the province of Florida.

And your petitioner further shows, that said land was granted on condition that your petitioner established thereupon a water saw mill, and that said grant should be considered of no value or effect till said establishment was effected; and your petitioner avers and declares, that in consequence of the disturbed state of the country, which was at that time infested with Indians, who regarded not the laws of the country, and overrun with wandering parties of white marauders, who despised the distinction of "*neum and tuem*," he never was enabled, during the existence of the Spanish government, to accomplish so arduous an undertaking as the erection of a water saw mill, and thereby fulfil the condition of the grant of land conceded for that purpose; yet your petitioner conceives that as the time for the performance of the condition contained in the grant was unlimited, he should now, under the present government, be permitted to comply with the said condition, and thereby perfect his title to the aforesaid tract of land.

And your petitioner further shows, that his claim to said land, so claimed by him for the establishment of the said water saw mill, was submitted to the examination of the board of commissioners, appointed under and in virtue of an act of the Congress of the United States of America, entitled "An act amending and supplementary to an act for ascertaining claims and titles to lands in Florida, and to provide for the survey and disposal of the public lands in Florida," passed the third day of March, in the year of our Lord one thousand eight hundred and twenty-three, but was not by them recommended to Congress for confirmation.

And your petitioner further shows. that the tract of land so claimed by him and situated as aforesaid, within the eastern district of the Territory of Florida, and within the jurisdiction of this honorable court as aforesaid, is embraced by the treaty between Spain and the United States of the twenty-second of February, one thousand eight hundred and nineteen. That his claim to said land has not been decided or finally settled under the provisions of the act of the Congress of the United States, entitled "An act supplementary to the several acts, providing for the settlement and confirmation of private land claims in Florida passed the 23rd day of May, in the year of our Lord one thousand eight hundred and twenty-eight, or of any of the acts to which the said last recited act is supplementary; that the said tract of land so claimed by your petitioner contains a greater quantity of land than the commissioners, appointed under the said act of Congress were authorized to decide, and above the quantity confirmed by the aforementioned act of Congress, passed the 23rd day of May, in the year of our Lord one thousand eight hundred and twenty-eight; and that the said claim of your petitioner to the said land has not been reported by the said commissioners appointed under any of the aforesaid acts of Congress, or any other, or by the register and receiver acting as such, under the several acts of the Congress of the United States, in such case made and provided, as antedated or forged, and that the said claim has not been annulled by the aforesaid treaty between Spain and the United States, nor by the decree ratifying the same

Wherefore, your petitioner prays that the validity of his claim to said tract of land may be enquired into and decided upon by this honorable court, and that in pursuance of the act of Congress for that purpose, in that case made and provided, the United States be made a party defendant to this petition, and that process in this behalf do forthwith issue against Thomas Douglas, esquire, the attorney for the United States in the eastern district of Florida, according to the provisions of the said act of Congress above alluded to, and your petitioners, as in duty bound, will ever pray.

FLOYD & GIBSON,
Attorneys for Petitioner.

A copy of the foregoing petition with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the Unitd States for the same district, and the return of the said marshal thereon is in the words and figures following, to wit:

"Served copy on Thos. Douglas, esq., dist. atty. 5th June, 1829."
"WATERS SMITH,
Marshal."

And afterwards, to wit: on the fourth day of August, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, esquire, United States attorney for the district of East Florida, brought and filed in the clerk's office of said court, his answer to the said petition; which said answer is in the words and figures following, to wit:

Answer of U. S. Attorney.

SUPERIOR COURT, *November Term*, 1829.

THE UNITED STATES OF AMERICA
ats.
WILLIAM DRUMMOND.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the petition or bill of complaint of William Drummond.

The said attorney, in the name and for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities in the said petition or bill of complaint, contained for answer thereunto, or unto so much thereof, as it is material and necessary for them to answer unto, answereth and saith: That whether any such grant of a tract of land containing three miles square, or five thousand seven hundred and sixty acres of land, situate, lying, and being on a creek called Buck Branch, on the river St. Marys, was ever made or not to the said William Drummond, by the said Governor Coppinger, bearing date the thirteenth day of September, in the year of our Lord one thousand eight hundred and sixteen, as the said William Drummond, in his petition or bill of complaint aforesaid, hath alleged and set forth; this respondent has no knowledge and cannot therefore either admit or deny the same, but respectfully prays this honorable court that the said William Drummond may be required to show and prove, on the hearing of this cause, the making and execution of the said supposed grant, (if any such grant was ever made) and of all the matters and things in the said petition or bill of complaint alleged and set forth, as they are therein stated, according to law and the usages of courts of equity.

And this respondent avers, that if any such grant of land was made by the said Don Jose Coppinger to the said William Drummond, which is not admitted, it was made contrary to, and in violation of the laws, ordinances, and royal regulations of the government of Spain which were in force in the said province of East Florida at the time when the said supposed grant of land is alleged to have been made, providing for the granting of lands in its provinces, of which said provinces the said East Florida was then one, and without any power or authority on the part of the said Governor Coppinger to make the same, and that if made as aforesaid, the said supposed grant was never approved by the government of Spain aforesaid, and that it was, and is, entirely null and void, as will more fully appear by reference to the laws, ordinances, and royal regulations aforesaid, which this respondent prays leave to introduce and read on the hearing of this cause; and this respondent saith, that at the time when the said supposed grant is alleged to have been made as aforesaid, no power had been conferred by the Spanish government aforesaid, upon the said Governor Coppinger, to make grants of land in East Florida of the magnitude and description of the one now claimed and described by the said William Drummond in this suit; and this respondent farther prays this honorable court, that the said William Drummond may be farther required to show and prove, on the hearing of this cause, the specific powers which had been conferred at the time last above mentioned by the said government of Spain (if any powers had been conferred) upon the said Governor Coppinger, to make grants of land in East Florida, and particularly that he may be required to show and prove the specific power under which the said Governor Coppinger claimed to act in making the said supposed grant, if indeed any such grant was ever made by him.

And this respondent further saith, that if any such grant was ever made by the said Don Jose Coppinger to the said William Drummond, for the said three miles square or five thousand seven hundred and sixty acres of land, and if the said Don Jose Coppinger, governor, &c., as aforesaid, had been invested with competent power and authority to make the same, which is not admitted, the said supposed grant was made upon the express and precise condition that the said William Drummond should establish a water saw mill thereon, and that the said supposed grant should be considered null and void and of no value or effect whatever until the said establishment should be effected; and that no such water saw mill has been built or established on the said tract of land, and that the said William Drummond has always hitherto entirely failed and neglected to build and establish said water saw mill, and to comply with the said condition of the said supposed grant in any way whatever, all of which fully appears by the showing of the said petitioner himself. And this respondent further saith, that if any such difficulties or disturbed state of the country at any time existed, as the aforesaid William Drummond, in his said petition or bill of complaint has alleged and set forth, they were of very short continuance; whereas, more than twelve years have elapsed, as appears by the showing of the said William Drummond himself, since the date of the said supposed grant, during the greater portion (if not the whole of which period) the said William Drummond might have proceeded with perfect safety in the building and establishment of the said water saw mill, and that the said William Drummond, by totally failing to comply with, or perform the aforesaid condition in any way whatever as aforesaid, has wholly forfeited and lost all his right and title, if any he ever had thereto; and farther, that if the said supposed grant was made as aforesaid, and if the said Governor Coppinger had been invested with competent power and authority to make it, [which is not admitted] the express condition upon which it was made was the act of a sovereign, and it was not a matter for judicial enquiry whether any circumstances had occurred to excuse a non-compliance with that condition, but it was competent only to the sovereign who had imposed the condition aforesaid, to release it, or to excuse a non-compliance therewith; and now to the sovereign power alone of the said United States, who have taken under the treaty in the said petition or bill of complaint mentioned the place of Spain, does the authority rest to decide whether any circumstances has occurred to excuse a non-compliance with said condition or to release it.

And this respondent farther saith, that if the said supposed grant of the said three miles square, or five thousand seven hundred and sixty acres of land, was made as aforesaid, and if the said Governor Coppinger had been invested with competent power and authority to make the same, and the condition thereof had been fully complied with, still the said supposed grant would not have given to the said William Drummond any right of soil in the said tract of land whatever, but only a right to use the pine trees which might be found thereon for the use of the said mill.

And this respondent farther saith, that if any such grant of land was ever made by the said Governor Coppinger to the said William Drummond, as is above mentioned, the said Governor Coppinger was induced to make the same by the representations of the said William Drummond, that he intended to erect upon the said land a water saw mill, and that great advantages would result to the said province and to the said Spanish government by the building of the said mill and putting the same into operation, and by his, the said William Drummond's, having undertaken to build the said water saw mill and put it in operation as aforesaid upon the said tract of land as a condition of the said supposed grant, and from the advantages which he, the said Governor Coppinger, believed from the representation of the said William Drummond aforesaid, would result to the said province and to the government of Spain aforesaid, in consequence of the lumber which the said Governor Coppinger supposed, from the said representations of the said William Drummond believed that the said saw mill would supply for the use of the inhabitants of the said province and for exportation, when in truth and in fact the said William Drummond had no intention of building the said water saw mill, but only made that a pretence to obtain the said supposed grant, if he ever obtained it at all.

And this respondent farther saith, that at the time when the said supposed grant is alleged to have been made as aforesaid, it was, and for a long space of time had been, the fixed and settled policy of the said government of Spain to parcel out its colonial domain with reference solely to the objects of increasing the population of its provinces and of benefitting its indigent subjects, and that according to that policy grants of land for the purpose of speculation were never approved or tolerated by the said government, and that the said supposed grant of lands was obtained, if it was obtained at all, for the purpose of speculation only.

And this respondent admits, that the claim of the said William Drummond to the tract of land aforesaid was submitted to the examination of the board of commissioners in his petition or bill of complaint aforesaid mentioned, and that the said board of commissioners reported unfavorably thereon.

And this respondent suggests, that if the said William Drummond has any grant for the said tract of land, the same was made since the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and eighteen, and that it was rendered entirely null and void by the provision of the latter clause of the eighth article of the same treaty, which is in the said petition or bill of complaint mentioned, and that therefore this court has (and can exercise) no jurisdiction in this case, as will more fully appear by reference to the said treaty, which this respondent prays leave to introduce and read on the hearing of this cause.

And now having fully answered all the matters and things in the said petition or bill of complaint contained, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOS. DOUGLAS,
U. S. Atty.

And afterwards, to wit: on the third day of August, in the year of our Lord one thousand eight hundred and thirty, the said attorney of the United States brought and filed in the clerk's office aforesaid, his amendment to the said answer, which said amendment is in the words and figures following, to wit:

Amendment to Answer.

THE UNITED STATES
ats.
WILLIAM DRUMMOND.
} Amendment to the Answer. Claim for 16,000 acres of land.

And the said respondent farther saith, that Don Ruperto Saavedra, "Senor Auditor of War" of said province, on the 27th day of October, in the year 1818, at the instance of Don Jose Coppinger, governor, &c., as aforesaid, made an official report to the said Governor Coppinger upon various matters relative to grants and concessions of land before that time made in said province, and amongst other things upon the right of those persons to whom grants or concessions of land had been made upon condition of their establishing mechanical works [such as factories, saw mills, &c.,] the eighth article of which said report is in substance as follows, to wit: "The assignment of large portions of territory which have been made for the establishment of factories, to persons who did not then comply, nor have since presented themselves to establish their mechanical works, ought to be considered without any right or value, and said lands declared perfectly free, that they may revert to the class of public lands in this particular; also the conditions for which they have been granted should be referred to, and in case any of them should have no limits an equitable time be specified for the establishment of the works, which having passed without carrying them into effect, they be declared vacant." And this respondent saith, that the said Don Jose Coppinger, governor, &c., as aforesaid, afterwards, to wit: on the 27th day of the same month of October, in the said year 1818, by his decree of that date, adopted and confirmed the said report, and ordered, decreed, and directed that it should be complied with, assigning the term of six months from the date last aforesaid, for the establishment of the mechanical works referred to in the 8th article thereof, on the terms expressed therein, all of which will more fully appear by reference to the said report and decree, as published in White's compilation, at pages 250 to 253, which this respondent prays leave to introduce and read on the hearing of this cause; and this respondent saith, that the said William Drummond did not build or establish the said saw mill within the said term of six months, but wholly failed and neglected so to do, and that all the right and title of the said William Drummond, if any he had, in and to the said tract of land under the said supposed concession, was entirely annulled and taken away by virtue of said decree so made as aforesaid, and that the said lands became, and were perfectly free and reverted to the class of public lands, at the expiration of the aforesaid term of six months.

And this respondent further saith, that the same Ruperto Saavedra, "Senor Auditor of War" as aforesaid, in another official report made by him upon the same subjects, at the instance of the said Governor Coppinger, on the 18th day of January, in the year 1819, amongst other things represented in substance as follows, to wit: "Although no royal order, nor the regulations speaks of the concessions of lands for the establishment of mechanical works, it is very obvious that it being the will of His Majesty to improve the province which he has taken so much interest in, dispensing for the purpose copious favors, the governor had the privilege of granting lands for the establishment of said works, with the same inducement of proprietorship to all those who contributed by their expenditures to works of so much utility to improvement of industry. Nevertheless, it is certain that many individuals who have obtained such concessions, have remained in inaction without having for so long a period advanced the establishment of said works, it appears just that such concessions which have remained in inactivity should be declared null and of no effect, but not so against those which have advanced the establishment of their works, since by their industry and expenditures they have made themselves entitled to every protection to animate their perseverance." And this respondent farther saith, that on the same day and year last aforesaid, the said Don Jose Coppinger, governor, &c., as aforesaid, adopted and confirmed the report last aforesaid, and by his decree of the same date, ordered and directed that it should be complied with, as will more fully appear by reference to the said report and decree, as published in the compilation aforesaid. And this respondent farther saith, that at the time last above mentioned, the said William Drummond had not (nor has he since) advanced the establishment of said works, to wit: the building of a water saw mill in any manner whatever, as appears by the showing of the petitioner himself, and that the said supposed grant or concession (if any such was ever made) was entirely annulled and set aside by the aforesaid decree last above specified, if indeed it was not originally, or had not before that time become entirely null and void.

THOS. DOUGLAS,
U. States Attorney.

And afterwards, before the superior court for the district of East Florida, holden at the court house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to which term this cause had come by regular continuance, to wit: on Tuesday, the third day of said term, and the eighteenth day of said month, the following entry of record was made in this cause, to wit:

Hearing of Cause.

WILLIAM DRUMMOND
vs. } Land Claim 5,760 acres.
THE UNITED STATES OF AMERICA

This day came as well the counsel for the said claimant as the counsel for the United States, and the claimant's counsel offered in evidence all the testimony taken in the cases of Elizabeth Wiggins, and of F. M. Arredondo and others vs. The United States, having relation to the disturbed state of the country, the counsel for the United States offering the cross examination of the witnesses to the same point, under the agreement of counsel filed in said cases. And this claim was submitted to the court for its decree thereon.

Evidence and testimony filed and offered in this case, and numbered from one to three inclusive, to wit:

No. 1.

TRANSLATION.

Memorial for Grant.

HIS EXCELLENCY THE GOVERNOR.

Don Guillermo Drummond, a native and inhabitant of this province, with due veneration represents to your Excellency, that he wishes to erect a water saw mill on the shores of St. Mary's river, on the Spanish side thereof, in the stream called *Buck Branch*, with a view to work the timber of this province, and as he wants a tract of land adequate to the said object, he expects, from the goodness of your Excellency, that you will be pleased to grant to him the requisite for the said end, that is to say, a square of three miles or the equivalent thereof: Therefore, your petitioner supplicates your Excellency be pleased to grant him the same, and in receiving this favor he will immediately proceed to the execution of the works. And your petitioner will be forever grateful.

St. Augustine of Florida, 11th September, 1816.

WILLIAM DRUMMOND.

Grant.

DECREE.

ST. AUGUSTINE, 12th September, 1816.

In consideration of the benefits and utility which the province will receive, if what William Drummond proposes is carried into execution, it is granted to him without prejudice of a third party, that he may erect a water saw mill in the creek called *Buck Branch*, on the shore of St. Mays river, but with the precise condition, that until he executes said machinery, this grant will be considered as null and void, and without value or effect until that event takes place, and then in order that he may not be injured in the great expenditures which he is preparing, he will have the faculty to use the pines comprehended within the square of the three miles which he solicits for the supply of said saw mill, without any body else having the faculty of taking any thing whatever from the same, and let the corresponding certificate be issued to him from the secretary's office.

COPPINGER.

St. Augustine, 5th of August, 1829.—I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter*
of the Sup'r Court.

No. 2.

SUPERIOR COURT, *East Florida.*

July Term, 1837.

WILLIAM DRUMMOND
vs.
THE UNITED STATES } Land Claim 5760 acres.

Testimony of Joseph S. Sanchez, Philip Solano, and Raphael D. Fontane, taken in open court, in the case of Elizabeth Wiggins, against the United States, relating to the disturbed state of the country, and read in evidence in this cause, to wit:

Testimony of Joseph S. Sanchez.

OF JOSEPH S. SANCHEZ.

Examined by Counsel for Claimants.

Question. Do you know where Lake George is situate?

Answer. I have never been there. I believe it is situated south and west of this place. I cannot say how far distant it is from this place. I do not know where it is. It is on the river St. John's somewhere.

Question. Are you not able to state that it is up the river St. John's and a considerable distance south of Palatka, and that it is in the neighborhood of Spring Garden?

Answer. I know that it is up the river St. John's, south of Palatka. I do not know how far it is from Pilatka. I have never been in that section of the country.

Question. Will you not be pleased to state whether it is not south of the junction of the Ock-le-wa-ha with the St. John's?

Answer. I can't say.

Question. Are you able, or not, to state whether or not it was considered unsafe to settle in that portion of this province, and around and contiguous to Lake George, in the years 1915 and 1816, and from that time till the transfer of the province to the United States?

Answer. Yes; it was generally believed unsafe to travel any where south and west of this place, before, and even since the transfer of the country. I believe there were one or more prosecutions for murders committed some time after the change of flags, by the Indians.

Question. Had not the attack of Genl. Jackson on the Indians in 1817 or 1818, the effect of driving them in large bodies from the Alachua country towards the eastern part of the province, and especially to the banks of the river St. John's?

Answer. Yes; they were driven as far even as St. Augustine.

Question. Was it, or not, the common report and understanding of the people of this part of the province, that from about the years 1816, to the time of the cession, the shores and neighborhood of Lake George were the places of especial and common resort by the Indians?

Answer. I don't know that it was more a place of resort than any other even north of this place. I heard of the Indians committing several murders about Flemming's Island, or in that vicinity somewhere.

Question. From what did the unsafe condition of this province result in Spanish times?

Answer. It resulted from the frequent incursions of the people from the borders of Georgia, together with those on this side, and the unsettled state of the Indians, who were never controlled by the Spanish government at all, and who were always ranging through the province.

Question. Would negro property, particularly on small plantatiosn and settlements on the river St. John's, and especially high up the river, have been safe within the periods you have spoken of?

Answer. They were not considered safe. I know of several cases where they were kidnapped by the persons I have mentioned in my preceding answer.

Examined by the United States Attorneys.

Question. You have said it was dangerous to travel to the south and west of this before the delivery of the province to the United States. Were there no persons settled in the country to the south and west of this previous to that time?

Answer. There were two or three persons settled about Musquito, but they were obliged to pay pretty dearly for it. They had to give the Indians presents every time they came down there, to keep them quiet.

Question. How long had these persons been settled there, and how long before the change of flags had there been any molestation of those persons by the Indians?

Answer. There were never more than four or five people settled at Musquito. I don't know how long they were settled there. The old ones died off and others took their places; and they were obliged to pass as Englishmen, to be allowed to stay down there by the Indians. These persons were always troubled by the Indians, who saved them the trouble of reaping all their crops, by stealing their corn and provisions.

Question. Were you at Musquito within the time you mention, or how do you know that the Indians committed the depredations you have stated?

Answer. I don't exactly recollect the first time I went down to that section of the country. I was down there once, when a party of Indians came to the house of Mr. Hunter, and they seemed to think that every thing belonged to them. Even now the Indians are sometimes in the habit of stealing provisions.

Question. Is it not the character of the Indians to plunder the plantations whenever they have an opportunity?

Answer. I believe that is their general character; but they were in the habit of doing it more frequently in this section of the country, because the inhabitants and Spanish government were not strong enough to keep them in subjection.

Question. You have said there were not settlers on the St. John's river. To what part of the river do you intend to apply the remark?

Answer. On the river south and west of Musquito. I meant to apply the remark to the river generally on the east side, from its head down to the neighborhood of Picolata.

Question? What number of persons were there settled at Picolata?

Answer. I believe there were no other persons living at Picolata but Mr. Warton and family, and Mr. Roudon and his family. I believe there were no inhabitants there on that side of the river till you got down to Judge Fatio's, and down to Julington creek, were there a good many inhabitants settled.

Question. Do you recollect to have heard of any disturbance among these inhabitants, occasioned by the Indians, after the revolution of 1812 to 1813?

Answer. Yes; the Indians were always troubling them, and they are doing so now; killing their stock in the neighbourhood of Picolata.

Question. Was there any other disturbance among them, other than that you have mentioned?

Answer. I can't say. I have no recollection.

Question. Do you know of a single instance under the Spanish government, of a white person having attempted to make a settlement on Lake George?

Answer. I can't say that I ever heard.

Question. Do you recollect to have heard of any person going direct to Lake George during the time the Spaniards remained in this country?

Answer. I don't know that I ever heard of any person going direct to Lake George. There were a few persons, not more than four or five, that were in the habit of travelling that country, trading with the Indians.

Question. Was not the whole country in the neighbourhood of Lake George an uninhabited wilderness during the whole period of the Spanish occupancy of this province?

Answer. I expect it was. No one would have gone there to settle, for they did not consider it safe to go there.

Question. At what time did the last revolution of the province terminate, and was not the country as tranquil from that time as it was at any other period, until the delivery of the province to the United States?

Answer. The revolution, I believe, terminated the latter end of 1812 or in 1813. I do not recollect the time exactly. The country was never more untranquil than it was from that time till the exchange of flags; the country was more untranquil from that time till the exchange of flags than at any other time, by the incursions of those people he has mentioned from Georgia.

Question. Were the persons you have mentioned from Georgia, troublesome to the Indians or to the Spaniards?

Answer. They were troublesome to both. They plundered and murdered the white population as well as the Indians.

Question. Was the disturbance greater after the year 1815, than it had been before that time?

Answer. I think that it was. After the revolution the country continued very disturbed till after the change of flags. I think it became more tranquil about a year before the change of flags, but not so tranquil as to induce persons to settle till a few years after the change of flags.

Question. Did any person within your knowledge attempt to make a settlement at a distant and remote place, during the period from 1812 till 1821?

Answer. Yes; I think there were one or two attempts made to settle that part of the country. Arredondo attempted to settle the Alachua grant, and Joseph M. Sanchez attempted to settle at Dunn's Lake. There may be others that I know nothing about.

Question. Did these persons make their settlements?

Answer. I think Joseph M. Sanchez did not succeed. I believe the Arredondo's were four or five years in making a settlement. They had to make negociations with the Indians.

Question. What attempt did Mr. Sanchez make to settle at Dun's Lake?

Answer. I believe he went out there and took some negroes with him, but he was obliged to come back. I think this was just before, or immediately after, the change of flags. He did not abandon the land. He afterwards went there, and settled the place and lived there five or six years, till he was taken sick, when he came to town and died.

Question. At what time did Mr. Sanchez make his settlement on Dunn's Lake?

Answer. I think the time when he first went out to Dunn's Lake was in 1817 or 1818; and the last time when he went out to settle, and did effect a settlement, was after the change of flags; how long after I do not recollect.

Examined by Claimant.

Question. You said, in answer to an enquiry from the counsel for the United States, that there were no settlements except of Indians on the river St. John's, especially on the east side of it, above Picolata. Will you state the distance and direction of Picolata from St. Augustine?

Answer. It is directly west, about eighteen miles distant.

Question. Was not the province and the Indians in it, particularly disturbed after 1815, by the invasion of the province on the west by General Jackson, and at the St. Mary's by General Gaines?

Answer. It was disturbed by the invasion of General Jackson, who drove the Indians down upon us, and they stole our property, and every thing else. I don't know how much the invasion of Genl. Gaines troubled the country.

Question. Were not the Indians, by the force and fear of Genl. Jackson, subsequent to 1815, driven in great numbers, into and over East Florida, from the west of the Sawanee?

Answer. Yes; they were so; and even to St. Augustine.

Question. Were not the plantations at the south and west of St. Augustine, so far as any were established, after 1815 to the transfer, constantly liable to have their negroes kidnapped by patriots from Georgia and the St. Mary's.

Answer. There were some instances where they were taken, and, I believe, one or two instances where they were shot.

Examined by U. States Attorneys.

Question. Were the Indians driven into this province by the invasion of Genl. Jackson on the west, until the month of May, 1818?

Answer. I don't recollect exactly the time. It was sometime in 1818?

The counsel for the United States objected to all the testimony of this witness, in relation to the disturbed state of the country, as being irrelevant; which objection was overruled by the court, and the testimony admitted.

Testimony of Philip Solano.

OF PHILIP SOLANO.

Philip Solano, sworn as a witness in open court, on behalf of the claimant.

Question. Are you a native born inhabitant of East Florida?

Answer. Yes.

Question. Have you been a constant resident of the province?

Answer. Yes.

Question. Be pleased to state your age?

Answer. I am fifty-one years old.

Question. Were you in Spanish times engaged in licensed trade with the Indians of the province, and if so, for what period?

Answer. Yes; we traded with the Indians when we pleased. We had no limited time. I was in trade with them for about twenty years before the cession.

Question. Do you know where Lake George is situated?

Answer. Yes; it is situated on the river St. John's, about sixty or seventy miles southwest of this place.

Question. Will you be pleased to state, as near as you can, how far Lake George is above Picolata?

Answer. I declare I cannot say. I have never been there by water, but it may be, in a straight line, about sixty miles. The river is very crooked.

Question. Are you able to state, whether or not, it was considered unsafe to settle in that portion of the province, and around and contiguous to Lake George, in the years 1815 and 1816, and from that time to the transfer of the province to the United States?

Answer. Yes.

Question. Were not the Indians, by the force and fear of General Jackson, subsequent to 1815, and at the time he invaded West Florida, driven in great numbers into and over East Florida, from the west of the Sawanee?

Answer. They were so.

Question. Will you be pleased to state, if you know, whether or not Lake George and its neighborhood was or was not a place of frequent and common resort of the Indians?

Answer. Yes; it was a common resort of the Indians; more so in the winter. They resided there more in the winter than at any other time.

Question. Will you state whether, at the time the Indians were driven in from the west by General Jackson, they did not particularly resort to, and in great numbers harbor about, Lake George?

Answer. Yes; a great many.

Question. Will you be pleased to state whether negroes, or other property, upon the river St. John's, and to the south and west of St. Augustine, from 1811 to the transfer of the province, was considered safe?

Answer. No.

Question. Do you consider that a small settlement could have been made and occupied with safety on the banks of Lake George or its neighborhood, for any considerable time, during any period between the years 1815 and the time of the cession?

Answer. I don't believe it could be done.

Question. Do you know of any particular incursion upon the province, or disturbances, between the years 1815 and the cession? If you do, be pleased to state them, and the time they occurred.

Answer. I do not recollect.

Question. Were not some of McGregor's men killed at Musquito?

Answer. Yes; some of them were killed there, that came there in a boat, I understood.

Question. Where did those men of McGregor's go from, and for what purpose did they go to Musquito?

Answer. I can't say exactly; I heard they went from St. Mary's.

Question. Did or did not East Florida remain in a very unsafe and unsettled state, for some years after the cession?

Answer. Yes.

Question. Was negro property safe or unsafe on the St. John's river, particularly high up the river, between 1815 and the cession?

Answer. I never considered them safe.

Question. Was or was not a great number of negroes kidnapped and carried off from the St. John's, between 1815 and the cession?

Answer. I don't recollect of any in particular being taken away. Some ranaway.

Examined by U. S. Attorneys.

Question. You have said you have been frequently at Lake George. Will you state, if you please, what you suppose to be the extent of the Lake, in width and breadth, and whether or not, it is not a very extensive sheet of water?

Answer. I have never been for the purpose of examining the place. I don't know the length or the width of it. I have seen the Lake often, but I don't know how long or how wide it is.

Question. Do you think it is ten miles in breadth?

Answer. I can't say whether it is ten miles in width or not. It may be between five and ten miles wide. I don't know exactly how wide it is.

Question. Do you think it ten or fifteen or twenty miles long?

Answer. I cannot say exactly; it may be ten miles long.

Question. Have you travelled much on the borders of the Lake?

Answer. I have been to it different times, but have never travelled much on the borders of the Lake.

Question. Did you ever know of any other white persons, except Indian traders, to go to Lake George before the change of flags?

Answer. No.

Question. Was it not very unusual for even the Indian traders to go to Lake George before the change of flags?

Answer. It was not in their way. It was unusual for them to go there.

Question. How far is the settlement on Musquito from Lake George?

Answer. I can't say exactly, but I suppose it to be about 25 or 40 miles.

Question. Was there any settlement between Musquito and Lake George?

Answer. Yes; there was one at Spring Garden.

Question. Who made the settlement at Spring Garden, and at what time was it made? How long did he live there, and at what time was it abandoned?

Answer. One Mr. Williams made the settlement. The time when it was made is about thirty years ago, as near as I can recollect. I know not how long he lived there, or when it was abandoned.

Question. Was any one living at Spring Garden in the year 1815?

Answer. I believe not. I saw Indians living about there in 1815.

Question. Were there any other settlements nearer to Lake George than the settlement at Musquito, in the year 1815.

Answer. Not that I know of.

Question. What number of men were in the boat at Musquito in the year 1817, when you say some men were killed; and did not the balance of the party belonging to the boat, leave there immediately after?

Answer. I don't know the number that was in the boat. I believe, by what I understood, that the Spanish troops and some dragoons made them go away.

Question. Did not the Governor send out troops to defend the inhabitants settled on the east of the St. John's river, whenever the settlers complained of intrusion, either from the Indians or white people?

Answer. I never knew him to send any troops after the Indians. Some of ourselves went out sometimes when the Indians did mischief. We petitioned the Governor for leave to go out.

Question. When you went out in pursuit of the Indians who had done mischief, did you not always succeed in driving them off?

Answer. We never could overtake them.

Question. You have said there were Indians living on Lake George. When did you first see them living there?

Answer. I don't know if they were living there. They went backwards and forwards there.

Question. You have said that the Indians were driven in on this province by the invasion of General Jackson; was that before the year 1818, and did you ever see more Indians on that Lake after 1818, that you had ever seen there before that time?

Answer. I think there were more Indians on Lake George after 1818, than there were before they were driven down here by General Jackson.

Question. Could a settlement have been made upon Lake George with safety, to either persons or property, before the year 1815?

Answer. I believe not.

The counsel for the United States objected to all the testimony of this witness, in relation to the disturbed state of the country, as being irrelevant; which objection was overruled by the court, and the said testimony admitted.

Testimony of R. D. Fontane.

OF RAPHAEL D. FONTANE.

Raphael D. Fontane, sworn as a witness in open court, on behalf of the claimant.

Question. Are you a native inhabitant of East Florida, and has the city of St. Augustine been your constant residence?

Answer. Yes.

Question. Will you state where Lake George is situated, and its distance and direction from St. Augustine?

Answer. It is situated on the river St. John's, in about a southwest direction from here, and is about sixty miles distant from here by land, and between forty-five and fifty miles above Picolata, and from Musquito across to Lake George is between twenty-five and thirty miles.

Question. Will you state whether the country at Lake George, and in its neighborhood, was considered as safe place for settlement at any time between 1815 and the transfer of the province?

Answer. I don't think it was.

Question. Was it reported as a place of frequent and common resort of the Indians of this province?

Answer. Yes.

Question. Do you consider that either slaves, or other property, would have been at all safe at a small settlement on the shores of the Lake, at any time from 1815 to the transfer?

Answer. I don't think they were.

Question. Was slave property considered liable to be kidnapped when upon the St. John's, to the south and west of St. Augustine, and were negroes occasionally kidnapped and run into Georgia, or into the Indian country?

Answer. They were.

Question. Do you know of any disturbances that occurred in the country, occasioned either by the Indians or by the patriots, subsequent to 1815; and if so, please to state what they were?

Answer. I do. In 1817, Amelia Island was taken. In 1818, at McGirt's point, there was the family of one Bradley killed there by the Indians, and some of them wounded. In 1817, at Black Creek, there was a son of one Mr. Branning killed by the Indians. At Flemming's Island, a party of Indians, about the latter part of 1817, came down there and killed a young man. At Picolata there were some negroes taken away that belonged to Mr. Wanton; I think this was in 1816; they were taken by white men, and, I believe, they were carried into Georgia. There were a family of free negroes taken within nine miles of this city, they were taken near about the time that Wanton's were. There was a boat in the month of August, 1817, left Amelia Island, and went to Musquito, and went up the Tomoka river, for the purpose of plundering. This was a party fitted out from that place, and I believe all the men were killed in the boat but one, and their boat was taken. I was engaged in two expeditions in 1817, to go out and protect the inhabitants. It was understood there was a boat fitting out for the purpose of plundering the inhabitants, and we went to Mrs. Hudnell's, on the St. John's river. I was in another expedition that went to St. Mary's river to protect the inhabitants. One of these expeditions was in July, 1817, and the other expedition was some time after that, in the same year.

Examined by U. States Attorneys.

Question. Do you recollect of any other disturbances in the province, between the year 1815 and the year 1821, than those you have mentioned?

Answer. I have no recollection of any others.

Question. How far is Amelia Island from Lake George? How far is McGirt's point, Black creek, and Flemming's island, from Lake George?

Answer. I should suppose Amelia Island to be about one hundred and fifty miles from Lake George. McGirt's point about 100 miles. Black creek about 80 miles. Flemming's island about 80 miles, and Picolata about 50 or 60 miles distant from Lake George.

Question. How many persons were supposed to be concerned in the taking of negroes of Mr. Wanton at Picolata? How many negroes were taken, and were they not the children of Mr. Wanton?

Answer. I suppose there were eight or ten persons concerned. I believe, including Mr. Wanton's children, there were about 17 negroes taken, as near as I can recollect.

Question. Was not Wanton an Indian countryman, and were not the persons engaged in taking these negroes, subjects of the King of Spain?

Answer. I don't know that he was. I have known him to live at Picolata. I believe that some of the persons engaged in taking these negroes of Wanton's were Spanish subjects, and some of them people from the borders of Georgia. There was a gang of Indians at McGirt's point; I don't know of how many it consisted. The Governor did not send out troops at that time. There were eleven Indians concerned in the affair on Flemming's island. I don't know how many Indians there were concerned in the affair at Black creek.

Witness states, that the strength of the Spanish garrison in this place, from the year 1815 till the change of flags, including the Black troops, were something like six hundred men, well armed and equipped. There was a garrison on the St. John's, at a place now occupied by Mrs. Hudnell, called Fort St. Nicholas, but which was broken up in June, 1817. There was a garrison at Pilatka, opposite the place where Doct. Brush's settlement now is. There was a fort at Picolata, but I don't know that there was any troops there. There were a few men at the place where Mr. Hollingsworth formerly lived, about twelve miles above St. Nicholas. Witness does not know that there were any troops at the mouth of the St. John's river after 1812. Witness states, that the number he has mentioned as being stationed at this place, does not include the militia of this place, which might been one hundred. Witness states, that the boat that was taken at Musquito, was taken by the militia that went from this place. The Governor received intelligence of this boat's fitting out, and the boat was seen to pass here, and the militia arrived about the same time with the boat. The whole of the men in the boat were killed, with the exception of one man, and the boat taken.

Question. Whenever the Governor was applied to for protection, by any of the people settled in the country, did he not send out detachments of troops for their relief?

Answer. I don't recollect of an instance of the kind. Companies that were fitted out, I know to be volunteer companies, fitted out by permission of the Governor.

Question. Could a settlement have been made upon Lake George with safety to persons or property, before the year 1815?

Answer. I think not. I have been at Lake George. I was up there in the early part of 1817. I was not there with the Indian traders. I was looking out for live oak.

Examined by Claimant.

Question. Were these garrisons stationed in different places on the St. John's, or elsewhere, considered as protecting the country, and making it safe and secure beyond the reach of their guns?

Answer. They were not. I believe they were merely kept there for the purpose of giving information to the Governor, if there was any disturbance. There were only a few men.

Question. Was the garrison opposite Palatka commanded by Lalderal?

Answer. It was kept by a few free negroes. There was a corporal there. I believe Lalderal was stationed there. The object of the garrison was to conduct Indians across the river St. John's.

Examined by U. States Attorneys.

Witness states that it is been 25 and 30 miles from Lake George t Pilatka.

No. 3.

SUPERIOR COURT, *East Florida.*

July Term, 1837.

WILLIAM DRUMMOND
vs.
THE UNITED STATES.
Land Claim 5,760 acres.

Testimony of Joseph M. Hernandez, George J. F. Clarke, Antonio Alvarez, James Hall, and Jacob Summerall, taken in open court in the case of F. M. Arredondo and others vs. The United States, relating to the disturbed state of the country, and read in evidence in this case, to wit:

Testimony of Jos. M. Hernandez.

OF JOSEPH M. HERNANDEZ.

Examined by U. S. Attorneys.

Witness states, that after the disturbances in 1812, a period of quiet, immediately on the removal of the United States troops from the province, took place, and continued for a number of months; but again, in the course of the year 1813, straggling parties, without any particular head, as the witness understands, were disturbing the country in the interior, west of the river St. John's and about the Alachua. This state of things continued for some time, and when it ceased, witness cannot precisely state; but previous to the occupation of the town of Fernandina, about the close of the year 1817, as witness thinks, a period of quiet of ten or twelve months had happened, which was again disturbed in the neighborhood of Amelia Island by that occupation, but the country generally continued quiet till it was entered by the United States in 1818.

Examined by Claimant.

Question. Was the Spanish Government able to afford protection to settlers in the years 1818, '19, and '20, in the Alachua?

Answer. I do not think they were.

Question. Did not this inability arise from the recent circumstances of the Spanish nation?

Answer. Yes; and war with France, since the year 1808, up to 1820, from which resulted the inability of Spain to protect her colonies. The witness adds that the inability of the Spanish Government has continued and increased up to the present time.

Testimony of Geo. I. E. Clarke.

OF GEORGE J. F. CLARKE.

Examined on behalf of the Claimants.

Question. What was the state of the Seminole nation, in the neighborhood of Alachua in the years 1818, 1819, and 1820, whether disturbed or not, and if so, the causes of disturbance?

Answer. General Jackson's army broke up Micasooky town, on the borders of Florida, in May, 1818. The army then progressed east by the town of Sawanee, lying N. W. of the centre of Alachua, about thirty miles, which they broke up. The Indians, in consequence of which, were dispersed in small parties, and were scattered in East Florida as far as Indian river and seaboard. With these circumstances I became acquainted from report. I am unacquainted with them myself. I am not certain with regard to the distance from Alachua to the Sawanee. The Indians were dispersed in small marauding parties, and it was considered dangerous to go among them. This was the state of affairs more or less until the late transfer of this country to the American Government.

Question. Did the unsettled state of affairs in Spain, in 1818, 1819, and 1820, cause any degree of stagnation in the business generally in this Territory?

Answer. Florida has been upon the decline from the revolution in France, and at this period was at a very low ebb; so low, indeed, that it scarcely could have been worse.

Question. Was not the government of this Territory jeopardized or enfeebled by the unsettled state of Spain?

Answer. The government was almost destitute at that period of funds and military, and unable to protect those who were at a distance from the town.

Examined by U. States Attorneys.

Witness states, that the inability of the provincial government to protect settlers west of the St. John's, and above the mouth of Black creek, was as great in 1817, as it was in the years spoken of by him above; and that inability had existed ever since the revolution of this province in 1812, and the cause of this enfeebled state of the provincial government, resulted from the debilitated state of the mother country, commencing particularly with the French revolution, which was as operative, as it regarded this country, in 1812, as it was afterwards. No material subsistence or supplies were received by the government here, after the revolution of 1812. Witness states, that the Alachua country lies west of the St. John's and south of the mouth of Black creek. Witness states, that it was considered unsafe to settle in the district of country spoken of, subsequently to the revolution in 1812, up to the time of the change of flag; he states that this insecurity he considered to have been occasioned by the troubles of the revolution, and the invasion of the province by the United States, and the occupation of Fernandina and invasion by McGregor. The Indians were considered friendly to the Spanish Government, and the danger was not so much apprehended from them, unless from plundering parties of Indians, they not being under control. McGregor took possession of Fernandina about the last of June, 1817.

Examined by Claimants.

Witness states, that the settled part of the country, north of the St. John's, was quiet in 1817; but that portion of the country in the neighborhood of Alachua, was still disturbed by marauding parties of plunderers and cattle stealers from Georgia, and from our own disaffected people.

Testimony of Anto. Alvarez.

OF ANTONIO ALVAREZ.

Witness states, that after the revolution and disturbance in 1812 and 1813, and during these years, and also in 1814, he had heard from common report of parties from Georgia, going into the Alachua country to steal cattle, and of disturbances between them and the Indians; that during the years 1815, '16' and 17, he heard of no disturbances of this kind in that country, but he heard that a family was murdered by the Indians, who were inhabitants of the province, but Spanish people, living, he believes, between the St. Mary's and St. John's rivers, but that he knew of no difficulty or disturbances, during part of this time, between the Spanish people and the Indians or between the Spanish Government and the Indians.

Testimony of James Hall.

OF JAMES HALL.

Examined by U. S. Attorneys.

Witness states, that previous to 1812, the Indians had possession of the country to the west of St. John's and south of Black creek, but that in 1812, the country was invaded by an armed force from Georgia, headed by Colonel Nunin, and subsequently, early in 1813, by a body of troops belonging to the United States, commanded by Colonel Smith, of the American army. The Indians were broken up by these invasions, and left the district of country spoken of. The witness says, that by the country of which he speaks, he means the Alachua country. Its boundary he did not know, but he understood the Indians lived in it, and were driven out, as stated above, in 1812 and 1813. He did not understand that they returned to the country again till after the invasion of Florida in 1818, by troops under the command of General Jackson. After they were broken up at Negro fort, the witness has understood that some of them came back again to the eastward, and he understood that a few of them fixed themselves in Alachua country again, in the Black Hammock, but principally settled in the woods, near to Dexter's, at a place called Volusia, on the east side of the St. John's river; they were, in fact, scattered over the country, even to St. Augustine. Subsequently to the invasion of this country by the party under Col. Smith, as the witness thinks, in 1816, (it might have been in 1815,) this country was again invaded by a party under the command of a person called General Harris, from Georgia. General Harris was killed in the country at this time, 1816, by a small party of Indians, consisting of two or three, and one negro. The witness states, that between the time of the invasion of the country by Colonel Smith, up to the time of the death of General Harris, it had been disturbed by repeated marauding and plundering parties, who stole cattle and horses belonging to the Indians, and carried them off and sold them.

Testimony of Jacob Summeral.

OF JACOB SUMMERALL.

Examined by U. S. Attorneys.

Witness states, that it was in the latter part of 1812, or the beginning of 1813, Colonel Nunin went into the Alachua country with a party of armed men under his command; the party exceeded a hundred in number; perhaps there were one hundred and forty. Witness belonged to the party, but was taken sick at Kingsley's plantation, called Laurel Grove, on the St. John's, and did not accompany the party beyond that place. Witness knows hat a party of American troops, under the command of Colonel Smith, of the army, and Colonel Williams, of Tennessee, who commanded the Tennessee troops, about two hundred in number, the whole command being stated at about five hundred in number, also went into the Alachua country sometime in 1813, after Nunin's invasion. Witness cannot state the precise time. Witness was at this time of the party; acted as pilot for the United States army. This party destroyed the Indians, and their villages, and their corn, and every thing else they could get hold of; burn every thing up that would burn, including their corn, except what the party wanted for their own consumption. The principal villages destroyed at this time were, one near Alachua prairie, another about twelve miles southwardly, at the Wacahootey; this was Bowlegs town; another between these villages, south of Alachua prairie; there were other small villages destroyed in other places. The witness says, when their villages were destroyed, all their horses and cattle, in the power of the party to protect, were taken and driven away from the country by the party, and hogs were killed, that could not be brought away, merely to destroy them. Witness thinks, that in the early part of 1814, a party, under the command of a person called General Buckner Harris, also invaded the Alachua country; the witness cannot state the number of which this party consisted; thinks it exceeded a hundred. It was composed of persons called patriots, from the United States, and some of them from Florida. General Harris made his first stand, and built a block house at the east end of the Alachua prairie; he did not stay there himself, though he was frequently there; but he had gone off to another place to settle a plantation, where he was killed.

And afterwards, before the superior court for the district of East Florida, holden at the court-house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to which term this cause had come by regular continuance, to wit: on Monday, the fourteenth day of said term, and the second day of the month of October, the following decree of confirmation was entered of record in this case, to wit:

Decree of Confirmation.

WILLIAM DRUMMOND
against
THE UNITED STATES OF AMERICA. } Land Claim 6,760 acres.

Whereas, William Drummond did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts, providing for the settlement and confirmation of private land claims in Florida," and approved 23rd day of May, 1828, on the 22nd day of May, 1829, file his petition for the confirmation of certain land therein mentioned, in the clerk's office of the superior court for the eastern district of Florida: And, whereas, the attorney of the United States, for said district, did duly appear and file his answer, and amended answer to the said petition, and this cause having been heard, and evidence and argument of counsel, as well on the part of the said claimant, as on that of the United States, having been offered and submitted to the court, and the court having examined the claim of the said petitioner, and the answers of the attorney of the United States, together with the evidence filed in this cause, and having maturely considered the same, doth order, adjudge, and decree, that this claim is valid, and that in accordance with the laws and customs of Spain, and under, and by virtue of the late "Treaty of amity, settlement, and limits, between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821; and under and by virtue of the laws of nations, and of the United States, it is hereby confirmed, adjudged, and decreed, unto the said claimant, to the extent, for the number of acres, and at the place, as in the memorial of the said claimant, and the grant of the governor thereon, is set forth, to wit: "A square of three miles" of land, "or the equivalent thereof, on the creek called Buck Branch, on the shores of St. Mary's river."

And afterwards, at the same term of July, on the same day, month, and year, the following appeal was entered of record in this cause, to wit:

Appeal.

THE UNITED STATES OF AMERICA
ads.
WILLIAM DRUMMOND.
} Land Claim 5,760 acres.

This day, came as well the attorney of the United States for this district. as the solicitor for the said claimant; and the said attorney of the United States moved the court that an appeal be granted in this case on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; and that a citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellee, and that the same may be served by the marshal of said district upon the said appellee or his solicitor or agent, and returned to this court within thirty days from the issuing thereof. All of which is ordered accordingly.

In pursuance of the above order, a citation of appeal was duly issued in this case; which said citation, and the return of the marshal of this district thereon, are in the words and figures following, to wit:

Citation of Appeal.

In the name and by the authority of the United States of America, to William Drummond, or to his Agent, Attorney, or Solicitor, greeting:

You are hereby cited and admonished, that an appeal has been taken on the part of the United States, from the decree of the superior court of East Florida, to the Supreme Court of the United States, in a certain claim to five thousand seven hundred and sixty acres of land, wherein you, the said William Drummond are claimant, and the said United States respondent; and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court at the next term thereof, to be holden on the second Monday of January next.

Witness the honorable Robert Raymond Reid, judge of our said
[SEAL.] court, at the court house, in the city of St. Augustine, this
third day of October, A. D. 1837.

K. B. GIBBS, *Clerk.*

THOS. DOUGLAS,
Dist. Atty.
E. B. GOULD,
Sol. for Claimant.

"Executed by serving a copy of this process on E. B. Gould, Esq., Oct. 9th, 1837.

JNO. M. FONTANE,
Dep. Marshal."

SUPERIOR COURT, *District of East Florida.*

I, Kingsley B. Gibbs, clerk of the said court for the district aforesaid, do hereby certify that the foregoing forty-four pages contain a full, true, and complete transcript of the record and proceedings had in the case therein named, in my charge.

In witness whereof, I have hereto set my hand at the city of St. Augustine, this twenty-fourth day of February, one thousand eight hundred and thirty-eight.

K. B. GIBBS, *Clerk.*

By the honorable Robert Raymond Reid, judge of the superior court for the district of East Florida:

To all to whom these presents shall come, be seen, or made known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district of East Florida , that all due faith and credit are, and ought to be given, to his acts as such, and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereunto set my hand, and
caused the seal of the said court to be hereunto affixed,
[L. S.] this twenty-fourth day of February, A. D. 1838, and of
the independence of the United States of America, the
sixty-second year.

ROBT. RAYMOND REID.

632.

SUPREME COURT OF THE UNITED STATES.

No. 30.

LESSEE OF SAMUEL REED PLAINTIFF IN ERROR,

VERSUS

WILLIAM MARSH.

IN ERROR TO THE SUPREME COURT OF OHIO, SCIOTO COUNTY.

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Langtree & O'Sullivan, print.

THE STATE OF OHIO, *Scioto County, ss.*

SCIOTO SUPREME COURT.

April Term, 1837.

JOHN DOE, on the demise of Samuel Reed, *vs.* WILLIAM MARSH.	In Ejectment.

Pleas before the Honorable Ebenezer Lane and Peter Hitchcock, two of the Judges of the Supreme Court of the State of Ohio, within and for the County of Scioto, on Thursday, the thirteenth day of April, in the year of our Lord one thousand eight hundred and thirty seven, and of our State the thirty-fifth:

Be it remembered, that heretofore, to wit, on the first day of March, in the year one thousand eight hundred and thirty-six, came the appelant, by his attorney, and filed in the clerk's office of the Supreme Court aforesaid, the original papers and journal entries in the cause wherein John Doe ex dieu Samuel Reed is plaintiff against William Marsh, defendant, to wit:

STATE OF OHIO, *Scioto Common Pleas.*

April Term, 1835.

SAMUEL REED, &c., *vs.* RICHARD ROE, &c.	In Ejectment.

Pleas held at the court house in the town of Portsmouth, in and for the county of Scioto, before the Honorable Thomas Irvin, President, Samuel Crull, William Givins, and Joseph Moore, esquires, Associates and Judges of our Court of Common Pleas, in and for said county, on Thursday, the twenty-third day of April, in the year of Lord one thousand eight hundred and thirty-five, and of our State the thirty-third:

Be it remembered, that on the twenty-sixth day of February, one thousand eight hundred thirty-four, it being at February term, came the plaintiff, John Doe, on the demise of Samuel Reed, and filed his declaration in ejectment against Richard Roe, casual ejector, which, together with the notice and sheriffs return thereto attached, are as follows, to wit:

THE STATE OF OHIO, *Scioto Court of Common Pleas.*

Of the Term of February, in the year of our Lord our thousaud eight hundred and thirty-four, Scioto county, to wit:

John Doe complains of Richard Roe being in the custody of, &c. For that, whereas, Samuel Reed on the tenth day of March, in the year of our Lord one thousand eight hundred and thirty-three, at the county of Scioto, aforesaid, had demised to the said John Doe ten messuages, ten barns, ten stables, ten dwelling houses, ten out-houses, ten yards, ten gardens, ten orchards, five hundred and fourteen acres and forty hundredths of an acre of arable land, five hundred and fourteen acres and forty hundredths of an acre of pasture land, five hundred and fourteen acres and forty hundredths of an acre of wood land, five hundred and fourteen acres and forty hundredths of an acre of land covered with water, and five hundred and fourteen acres and forty hundredths of an acre of other land, with the appurtenances, situate and being the north side of fractional section five, of township two, of range twenty-one, in the county of Scioto aforesaid, to have and to hold the same to the said John Doe and his assigns, from the said tenth day of March, in the year one thousand, eight hundred and thirty-three aforesaid, for, and during and unto the full end and term of twenty-one years thence next ensuing, and fully to be completed and ended, by virtue of which said demise, the said John Doe entered into the said tenements, with the appurtenances, and became and was possessed thereof, for the said term so to him thereof granted; and the said John Doe so thereof possessed the said Richard Roe, afterwards, to wit, on the fifteenth day of March, in the year of our Lord one thousand eight hundred and thirty-three aforesaid, with force and arms, &c., entered into the said tenements, with the appurtenances, in which the said John Doe was so interested in manner and for the term aforesaid, which is not yet expired, and ejected the said John Doe from his said farm, and other wrongs to the said John Doe, then and there did against the peace, and to the damage of the said John Doe one thousand dollars, and therefore he brings his suit, &c.

N. K. CLOUGH and
THOMAS SCOTT,
Attorneys for Plaintiff.

Notice.

"MR. WILLIAM MARSH:

SIR: I am informed that you are in possession and claim title to the premises in the declaration of ejectment mentioned, or to some part thereof, and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear at the next term of the court of common pleas, for Scioto county aforesaid, on the first day of said term, by some attorney of that court, and then and there, by rule of the same court, cause yourself to be

made defendant in my stead, otherwise I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession.

Dated December 4, 1833.

Your loving friend,
RICHARD ROE.

Sheriff's Return.

Sheriff's return, to wit: "Served by leaving a copy of this writ with William Marsh, December 10, 1833.

C. OVERTURF, *Sheriff*."

On the twenty-eighth day of February, in the year aforesaid, it being at February term, the following consent rule was entered into, to wit:

"By consent of parties, by their attorneys, William Marsh, the tenant in possession of the premises in the plaintiff's declaration mentioned, is admitted defendant in the room and place of the now defendant Richard Roe, the casual ejector who hereby agrees to receive the declaration of ejectment of the plaintiff in the action of trespass and ejectment for the premises in question, and immediately plead thereto not guilty, and the said William Marsh, hereby confesses the lease, entry and ouster in the plaintiff's declaration mentioned, and agrees to insist upon the title only on the trial.

S. M. TRACY,
Attorney of Plaintiff.

SCOTT and CLOUGH,
For Plaintiff."

On the same day and year aforesaid, came the plaintiff, by his attorney, and filed his declaration in ejectment against William Marsh, defendant, to wit:

Narr.

THE STATE OF OHIO, *Scioto County, Court of Common Pleas.*

Of the Term of February, in the year of our Lord one thousand eight hundred and thirty-four, Scioto county, to wit:

John Doe complains of William Marsh being in custody, of &c. For that, whereas, Samuel Reed on the tenth day of March, in the year of our Lord one thousand eight hundred and thirty-three, at the county of Scioto, aforesaid, had demised to the said John Doe ten messauges, ten barns, ten stables, ten dwelling houses, ten out-houses, ten yards, ten gardens, ten orchards, five hundred and fourteen acres and forty hundreths of an acre of arable land, five hundred and fourteen acres and forty hundreths of an acre of pasture land, five hundred and fourteen acres and forty hundreths of an acre of wood land, five hundred and fourteen acres and forty hundreths of an acre of land covered with water, and five hundred and fourteen acres and forty hundreths of an acre of other land, with the appurtenances, situate and being the north side of fractional section five, of township two, of range twenty-one, in the county of Scioto aforesaid, to have and to hold the same to the said John Doe and his assigns, from the said tenth day of March, in the year of our Lord one thousand eight hundred and thirty-three, aforesaid, for and during and unto the full end and term of twenty-one years from thence next ensuing, and fully to be complete and ended. By virtue of which said demise, the said John Doe entered into the said tenements, aforesaid, with the appurtenances, and became and was possessed thereof, for the said term so to him thereof granted; and the said John Doe being so thereof possessed, the said William Marsh, afterwards, to wit: on the fifteenth day of March, in the year of our Lord one thousand eight hundred and thirty-three, aforesaid, with force and arms, &c., entered into the said tenements, with the appurtenances, in which the said John Doe was so interested in manner and for the term aforesaid, which is not yet expired-, and ejected him the said John Doe from his said farm, and other wrongs to the said John Doe, then and there did against the peace, and to the damage of the said John Doe one thousand dollars and therefore he brings his suit, &c.

N. K. CLOUGH and
THOMAS SCOTT.
Attorney for Plaintiff.

And afterwards, to wit, on the day and year last aforesaid, came the defendant, William Marsh, by his attorney, and filed his plea, to wit:

Plea.

" And the defendant comes and defends the force and injury when, &c. Says he is not guilty in manner and form, as the plaintiff hath declared against him, and of this he puts himself upon the country; and the defendant doth the like, &c.

S. M. TRACY,
Attorney of Defendant."

February, Term 1834.

And afterwards, to wit, on the same day and year aforesaid, at the term aforesaid, by consent of parties, it is ordered by the court here, that the surveyor of this county, taking to his assistance the necessary aid, do on the first Monday in May next, if fair, and if not, the next fair day, go upon the lands in question, and lay off the same, as either party may direct, having due regard to the evidences of claim produced by them, and return four fair plats and reports thereof to the clerk's office, five days previous to the next term of this court; and the sheriff of this county, if required, is hereby commanded to attend and remove force should any be offered; and this cause is continued at July term, in the year one thousand eight hundred and

thirty-four. Aforesaid, came Mr. Clough, attorney for the defendant and made his professional statement. The depositions taken in the above cause, at the town of Lancaster, were delivered to John T. Brazee, Esq., one of the attorneys of this court. It is therefore considered by the court here, that the said John T. Brazee show cause on or before the first day of next term, why said depositions should not be produced and continued. At November term next following, came the defendant by his attorney, and on his motion, leave is granted him to file his additional pleas in the above cause, &c. And, on a further motion to continue this cause, by reason of the absence of Judge Scott, the principal counsel for the plaintiff in this cause, motion granted and cause continued, that if in the event of the appeal of this cause to the Supreme Court, Mr. Vinton, who is of counsel for defendant, shall be absent at the first term of the Supreme Court after such appeal, by reason of attendance on public duty as a member of Congress. Then the plaintiff shall consent to a continuance in the Supreme Court at that term. At April term, one thousand eight hundred and thirty-five, came the parties by their attorneys; and thereupon, by their mutual consent, judgment is to be rendered for the plaintiff. Therefore, it is considered, that the said John Doe recover against the said Richard Roe, his said term yet to come in the tenements aforesaid, with the appertunances. And, it is further considered by the court here, that the said plaintiff, recover of the defendant his costs amounting to dollars and cents. Whereupon the said defendant entered notice of appeal to the next Supreme Court.

THE STATE OF OHIO, *Scioto county, ss.*

I John R. Turner, clerk of the court of common pleas, in and for said county, do certify that the foregoing are the journal entries in the above cause. And I do further certify, that bond and security have been given according to law.

In testimony whereof, I have hereunto set my name, and affixed
the seal of our said court at the town of Portsmouth,
[SEAL.] March 1st. 1836, and of our State the 34th.
JOHN R. TURNER,
Clerk.

At March term of the Supreme Court, one thousand eight hundred and thirty-six, came the parties by their attorneys; and thereupon, by their mutual consent, the above cause is continued. On the tenth day of April, it being April term of the Supreme Court, one thousand eight hundred and thirty-seven, came the parties by their attorneys, and thereupon came also a jury, to wit:

Verdict.

Washington Kinney, Wyate Chamberlain, Hezekiah Mead, Shadrick Chaffin, Stewart Slavens, Zuia Gunn, Benjamin Masters, John

Wilson, Miranda Searls, and George Mitchel Talismen, Levi Moore, and George Heoredth, who being empannelled and sworn the truth to speak, on the issue joined between the parties. On motion of the defendant in this case, it is ordered that an attachment issue against William Vanort, a witness for contempt, in refusing to obey the process of subpoena returnable forthwith. On the eleventh day of April, in the year aforesaid, at the term aforesaid, the jury heretofore sworn in this cause, came this day into court; and thereupon, the parties progressed in the trial, and thereupon the jury retired out of court to consult of their verdict. On the day following, to wit: on the twelfth day of April, in the year aforesaid, at the term aforesaid, came the parties by their attorneys; and thereupon, came also the jury heretofore empanelled and sworn in this cause, and upon their oaths, do say, that the said William Marsh, is not guilty of the tresspass or ejectment laid to his charge in manner and form as the said John Doe hath complained against him. Whereupon the plaintiff by his attorney enters notice of a motion for a new trial. On the thirteenth day of April, in the year aforesaid, at the term aforesaid, came the plaintiff by his attorney, and filed his motion for a new trial, for the reasons on file, and the same is reserved for decision in bank. Which said reasons are as follows, to wit:

Reasons for new trial.

STATE OF OHIO, *County of Scioto, ss.* Supreme Court.

April Term, A. D. 1837.

SAMUEL REED lessee
vs. } In ejectment.
WILLIAM MARSH, deft.

The plaintiff moves the court here for a new trial on the grounds following.

1st. The verdict is contrary to the evidence.

2nd. The court erred in admitting as evidence sundrey papers, signed by Thomas T. Scott for Thomas Scott, register of the land office at Chillicothe, without proof of his being authorised by his principal to sign such certificate, and without the authority of law.

3. The court erred in permitting sundry papers, signed by Thomas Scott, as register of the general land office at Chillicothe, to go as evidence to the jury.

4. The court erred in permitting the testimony of Havey Adams to go to the jury, when he the said Adams swore, that he had sold to McDaniel part of the tract of land in controversy, as part of fractional section No. 6, in township No. 2, of range 21, and that he was consequently interested in the event of the suit.

5. The court erred in refusing to give to the jury the following instructions, to wit:

The plaintiff's attorney respectfully requests the to court charge th jury as follows:

1. That the plaintiff claim*s* title to the lands and premises in ques ion, in virtue of a patent granted to Samuel Reed his lessee, on th 20th day of October, A. D. 1827, which reads in the words and figures following, to wit: (See patent.)

2. That in the ordinance of Congress, under the articles of confederation of May 20, 1785, it is among other provisions therein contained, provided as follows, (see ord.)

3. That the 1, 2, 3, 4, 5 and 6th sections of an act of Congress of the United States, approved 18th May, 1796, entitled "An act providing for the sale of lands of the United States, in the territory northwest of the Ohio, and above the mouth of the Kentucky river," contains the following provisions, to wit: ("sec. 1, a surveyor general shall be appointed," see the laws.)

4th. That from copies of the plats and descriptions of townships, two and three, in range twenty-one, in the State of Ohio, taken from the return of the surveyor general; and now on file in the general land office, duly certified by John M. Moore, acting commissioner of the land office, under the hand and official seal of such commissioner, on the 11th day of June, A. D. 1833, and which reads in the words and figures following, to wit: (see plats marked,) it does appear that Elias Laugham, as deputy surveyor of the then surveyor general; and in pursuance of instruction received from him for that purpose, did in the month of April, 1799, survey or sub-divide the aforesaid township, No. three, and in the month of May, in said year, he did also survey or sub-divide the aforesaid township, No. two, in range twenty-one aforesaid, into sections, containing as near may be, six hundred and forty acres each, by running through the same each way paralell lines at the end of every two miles; and by marking a corner on each of said lines at the end of every mile, &c., as provided in the act of Congress last above recited.

5. That on the tenth day of May, 1800, an act of Congress, was approved, amendatory to the above recited act of 18th May, 1796, the 1, 2, 3 and 4th sections of which read as follows, see those sections.

6th. That the 9th and 10th sections of an act of Congress, approved 26th March 1804, provides, (*vide* section.)

7th. That the 13th section of an act of Congress, approved 26th March 1804, provides, (see it.)

8th. That 1, 2 and 3 sections of an act of Congress, approved 11th February 1805, provides &c. (see sec.)

9th. That from copies of the plats and descriptions of townships, No. 2 and No. 3, in range No. 21, ref*f*erred to in No. 4 of instructions, equested it does appear, that the said township, No. 3 was subdivided by James Denny, D. S. in 1805, and that said Township No. 2, was sub divided by the said James Denny, D. S. aforesaid in 1806.

10th. That from copies of the plats and descriptions of the sub-divisions of the said two townships, numbered 2 and 3 in range 21, certified by Jared Mansfield, surveyor general, and on file in the register's office at Chillicothe, where the lands in question were sold, it does appear that said sub divisions were placed on record, and by him certified to the Secretary of the Treasury, and to the register of the land office at Chillicothe.

11th. That according to the construction of the acts of Congress above recited after the said two townships, No. 2, and 3, had been by Laugham in 1799, sub-divided into sections of 640 acres each, as nearly as may be by running through the same each way parallel lines at the end of every two miles, and by marking a corner on each of said lines at the end of every mile, as in said acts provided: and after the field notes, plats, and descriptions of such sub-division had been returned to the surveyors general's office; and by him recorded, and after plats and descriptions of such sub-division had been by the said surveyor general certified and sent to the places of sale; and the Secretary of the Treasury as in said act provided. Neither the surveyor general nor his deputies, nor any one acting under his or their authority, could legally alter or change, any one of the corners of the sections so marked, returned, recorded, and certified as aforesaid.

12th. That according to the true construction of the above recited acts of Congress of the 26th March, 1804, and of the 11th February, 1805, neither the surveyor general nor his deputies, in discharging the duties of sub-dividing the public lands, as in those acts provided, were authorized to alter or change the corners of sections which had been previously marked, returned, recorded and certified as aforesaid.

13th. That when either the principal surveyor or his deputies had once discharged or performed any one or more of the acts required of him or them, his or their power to perform such act or acts ceased and was at an end.

14th. That according to the true construction of the above recited act of Congress, approved, 11th February, 1805, all the corners of sections made by Laugham in 1799, when sub-dividing into sections, townships, 2, and 3, in range 21, as aforesaid, and which were returned by the surveyor general to the Secretary of the Treasury, were irrevocably established.

15th. That consequently, if the jury shall find from the evidence, that the corner designated by the letter B, on the plat and description of a re-survey of the lands and premises in question, according to the pretensions of each party made and returned by Samuel Dole, surveyor of Scioto county, in pursuance of an order of the court of common pleas, made in this cause, and which reads in the words and figures following, to wit: (see plat) was marked and returned by Laugham, D. surveyor to the surveyor general's office, recorded and certified by the surveyor general as aforesaid, as the northwest corner of said fractional section No. 5, in township No. 2, range 21, and if the jury shall further find from the evidence, that the defendant is in possession of any of the lands embraced within the patent granted to Samuel Reed the lessor of the plaintiff, so bounded as aforesaid, then that their verdict must be for the plaintiff.

16th. That if the jury shall find from the evidence, that James Denny, D. S. in the fall of 1805, or on the 1st January, 1806, run the line D. H. and marked the corner of said fractional section, No. 5, in township No. 2, of range No. 21, at the point designated on the diagram, returned by Samuel Dole, surveyor of Scioto county as aforesaid, by the letter H; and that he also run and marked a line from B to the Scioto river, the point designated by the letter J, on said diagram, his power either to run or mark lines or corners in the exterior boundaries of that section was at an end.

17th. That the above recited act of Congress, of 11th February, 1805, declared that the boundary lines actually marked, and run by the surveyor general, &c., shall be established as the proper boundary lines of the sections or sub-divisions for which they were intended; and the length of such lines as returned, &c., shall be considered as the true length thereof, and consequently the jury are bound by the boundary lines and corners of said fractional section, as originally made and marked on the surveys returned by the surveyor general as aforesaid.

6th. The court erred in their charge to the jury.

THOMAS SCOTT,
Attorney for pet."

And now, at this time, to wit, at a supreme court of the State of Ohio, held in and for the county of Scioto aforesaid, before the judges aforesaid, and at the time and place first herein aforesaid, this cause came on to be heard upon the motion of the plaintiff, to set aside the verdict herein rendered, and to grant him a new trial, and was argued by counsel. On consideration whereof, it is ordered that said motion, be and the same is overruled with costs. Therefore, it is considered that the defendant go thereof without delay, and recover of said Reed his costs herein expended, taxed to sixty-three dollars and sixty-one cents, and the plaintiff's costs are seventy-two dollars and eighty-six cents. And it is ordered, that a special mandate issue to the court of common pleas to carry this judgment into execution.

Cost	*and*	*Bill.*
Plaintiff.		Defendant.
12 94	Clerk	8 14
5 00	D. fee	5 00
"	Jury fee	6 00
27 50	Witnesses	28 00
11 65	Sheriff	8 07
13 77	Depositions	8 40
2 00	Clk. in bank	"
$72 86		$63 61

STATE OF OHIO, *Scioto county, ss:*

I John R. Turner, clerk of the supreme court of the State of Ohio, in and for said county, do certify that the foregoing is a true copy of the record and proceedings in the cause aforesaid, as the same remains on the complete record of said court, now remaining in my office. In testimony whereof, I have hereunto set my name and affixed the seal of our said court, at the town of Portsmouth, Ohio, this 1st day of May, A. D. 1838, and in the 36th year of this State.

[SEAL.]

JOHN R. TURNER, *Clerk*.

The following is the patent refferred to in the first instruction asked in the fifth reason for a new trial in the foregoing record, (viz :)

4373.

"JOHN QUINCY ADAMS.

"*President of the United States of America.*

"To all whom these presents shall come greeting :

"Know ye, that Samuel Reed, assignee of John Stump, having deposited in the *General Land Office*, a certificate of the register of the land office at Chilicothe, whereby it appears that full payment has been made for part of the north end of fractional section five, in township 2, of range twenty-one, containing five hundred and fourteen acres, and forty hundreths of an acre of the lands directed to be sold at Chilicothe by the acts of Congress, entitled "An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky river ;" and of the acts amendatory of the same; there is granted by the United States unto the said Samuel Reed and to his heirs the lot of land above described. To have and to hold the said lot of land with the appertenances to the said Samuel Reed, and to his heirs and assignees forever.

"In testimony whereof, I have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed. Given under my hand at the City of Washington, the twentieth day of October, in the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-seecond.

[SEAL.]

" By the President. J. Q. ADAMS.

"Recorded in volume 55, page 444.

GEORGE GRAHAM,
Commissioner of the General Land Office."

The following is the ordinance of Congress refferred to in the second instruction asked, to wit :

"(Ordinance of May 20, 1785, 1 v. S. U. S. p. 563.)

The surveyors as they are respectively qualified, shall proceed to divide the said territory into townships of six miles square, by lines running due north and south, and others crossing these at right an-

gles, as near as may be, unless where the boundries of the late Indian purchases may render the same impracticable; and then they shall depart from this rule no farther than such particular circumstances may require. And each surveyor shall be allowed and paid at the rate of two dollars for every mile in length he shall run, including the wages of chain carriers, markers, and every other expense attending the same.

The first line running north and south as aforesaid, shall begin on the river Ohio, at a point that shall be found to be due north from the western termination of a line which has been run as the southern boundary of the State of Pennsylvania; and the first line running east and west, shall begin at the same point, and shall extend throughout the whole territory; Provided, That nothing herein shall be construed as fixing the western boundary of the State of Pennsylvania. The geographer shall designate the townships or fractional parts of townships by numbers progressively, from south to north, always beginning each range with No. 1; and the ranges shall be distinguished by their progressive numbers to the westward. The first range extending from the Ohio to the Lake Erie, being marked No. 1. The geographer shall personally attend to the running of the first east and west line; and shall take the latitude of the extremes of the first north and south line, and of the mouths of the principal rivers.

The line shall be measured with a chain; shall be plainly marked by chops on the trees, and exactly described on a plat; whereon shall be noted by the surveyor, at their proper distances, all mines, salt-springs, salt-lick and mill-seats, that shall come to his knowledge; and all water-courses, mountains, and other remarkable and permanent things, over or near which such lines shall pass, and also the quality of the lands.

The plats of the townships, respectively, shall be marked by subdivisions, into lots of one mile square, or 640 acres, in the same direction as the external lines, and numbered from 1 to 36, always beginning the succeeding range of the lots with the number next to that with which the preceding one concluded: and where, from the causes before mentioned, only a fractional part of a township shall be surveyed, the lots protracted thereon shall bear the same numbers as if the township had been entire; and the surveyor, in running the external lines of the townships, shall, at the interval of every mile, mark corners for the lots which are adjacent, always designating the same in a different manner from those of the townships.

The board of treasury shall transmit a copy of the original plats, previously noting thereon the townships and fractional parts of townships, which shall have fallen to the several states by the distribution aforesaid, to the commissioners of the loan office of the several States who, after giving notice of not less than two, nor more than six months, by causing advertisements to be posted up at the court-houses or other noted places in every county, and to be inserted in one newspaper published in the States of their residence, respectively, shall proceed to sell the townships or fractional parts of townships, at public vendue, in the following manner, viz: the township or fractional part of a township, No. 1, in the first range, shall be sold entire, and No. 2, in the same range, by lots, and thus, in alternate order, through the whole of the first range. The township, or fractional part of a township, No. 1, in the second range shall be sold by lots, and No. 2 in the same range entire, and so in alternate order through the whole of the second range; and the third range shall be sold in the same manner as the first, and the fourth in the same manner as the second, and thus alternately thoughout all the ranges, provided that none of the lands within said territory be sold under the price of one dollar the acre, to be paid in specie or loan office certificates, reduced to specie value, by the scale of depreciation, or certificates of liquidated debts of the United States, including interest, besides the expense of the survey and other charges thereon, which are hereby rated at thirty-six dollars, the township in specie or certificates as aforesaid, and so, in the same proportion, for a fractional part of a township, or of a lot, to be paid at the time of sales, on failure of which payment, the said lands shall be again offered for sale.

There shall be reserved for the United States out of every township, the four lots, being numbered 8, 11, 26, 29; and out of every fractional part of a township, so many lots of the same numbers as shall be found thereon, for future sale. There shall be reserved the lot No. 16, of every township, for the maintenance of public schools within said township; also, one third part of all gold, silver, lead and copper mines, to be sold, or otherwise disposed of as Congress shall hereafter direct,"

The 1st, 2nd, 3d. 4th, 5th and 6th sections of an act of Congress of the United States, approved, 18th May, 1796, and refferred to the third instruction asked, are as follows, to wit:

Sec. 1. That a surveyor general shall be appointed, whose duty it shall be to engage a sufficient number of skilful surveyors, as his deputies, whom he shall cause without delay, to survey and mark the unascertained outlines of the lands lying northwest of the river Ohio, and above the mouth of the river Kentucky, in which the titles of the Indian tribes have been extinguished, and to divide the same in the manner hereinafter directed; he shall have authority to frame regulations and instructions for the government of his deputies, to administer the necessary oaths upon their appointment; and to remove them for negligence and misconduct in office.

Sec. 2. That the part of the said lands which has not been already conveyed by letters patent, or divided, in pursuance of an ordinance of Congress, passed on the twentieth day of May, one thousand seven hundred and eighty-five, or which has not been heretofore, and during the present session of Congress, may not be appropriated for satisfying military land bounties, and for other purposes, shall be divided by north and south lines, run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of the late Indian purchase, or of tracts of land heretofore surveyed or patented, or the course

of navigable rivers may render it impracticable, and then this rule shall be departed from no further than such particular circumstances may require. The corners of the townships shall be marked with progressive numbers from the beginning; each distance of a mile between the said corners shall be also distinctly marked with marks different from those of the corners; one half of the said townships taking them alternately, shall be sub-divided into sections, containing as nearly as may be six hundred and forty acres each, by running through the same, each way, parallel lines, at the end of every two miles, and by marking a corner, on each of the said lines at the end of every mile. The sections shall be numbered respectively, beginning with the number one, in the northeast section, and proceeding west and east alternately through the township with progressive numbers until the thirty-sixth be completed. And it shall be the duty of the deputy surveyors respectively to cause to be marked on a tree near each corner, made as aforesaid, and within the section, the number of such section, and over it the number of the township within which such section may be, and the said deputies shall carefully note in their respective field-books, the names of the corner trees marked, and the numbers so made. The fractional parts of townships shall be divided into sections, in manner aforesaid, and the fractions of sections shall be annexed to, and sold with, the adjacent entire sections. All lines shall be plainly marked upon trees, and measured with chains, containing two perches of sixteen feet and one half each, sub-divided into twenty-five equal links, and the chain shall be adjusted to a standard, to be kept for that purpose. Every surveyor shall note in his field-books, the true situations of all mines, salt-licks, salt-springs and mill-seats, which shall come to his knowledge; all water-courses over which the line he runs shall pass; and also, the quantity of the lands; these field books shall be returned to the surveyor general, who shall therefrom, cause a description of the whole lands surveyed, to be made out, and transmitted to the officers who may superintend the sales; he shall also cause a fair plat to be made of the townships, and fractional parts of townships, contained in the said lands, describing the sub-divisions thereof and the marks of the corners. This plat shall be recorded in books to be kept for that purpose, a copy thereof shall be kept open at the surveyor general's office for public information, and other copies sent to the places of sale, and to the Secretary of the Treasury.

Sec. 3. That a salt-spring lying upon a creek which empties into the Scioto river, on the east side, together with as many contiguous sections, as shall be equal to one township, and every other salt-spring which may be discovered, together with the section of one mile square, which includes it, and also four sections at the centre of every township, containing each one mile square, shall be reserved for the future disposal of the United States, but there shall be no reservations, except for salt-springs, in fractional townships, where the fraction is less that three-fourths of a township.

Sec. 4. That whenever seven ranges of townships, shall have been surveyed below the great Miami, or between the Scioto river and the Ohio Company's purchase, or between the southern boundary of the Connecticut claims, and the ranges already laid off, beginning upon the Ohio river, and extending westwardly, and the plats thereof made and transmitted, in conformity to the provisions of this act, the said sections of six hundred and forty acres (excluding those hereby reserved) shall be offered for sale, at public vendue, under the direction of the governor, or secretary of the western territory, and the surveyor general. Such of them as lie below the Great Miami shall be sold at Cincinnati; those of them which lie between the Scioti and the Ohio Company's purchase, at Pittsburgh; and those between the Connecticut claim and the seven ranges at Pittsburgh. And the townships remaining undivided shall be offered for sale in the same manner, at the seat of government of the United States, under the direction of the Secretary of the Treasury in tracts of one quarter of a township, lying at the corners thereof, ecluding the four central sections, and the other reservations before mentioned, *provided* always, that no part of the lands directed by this act to be offered for sale, shall be sold for less than two dollars per acre.

SEC. 5. That the Secretary of the Treasury after receiving the aforesaid plats, shall forthwith give notice in one newspaper in each of the United States, and of the territories northwest, and south of the river Ohio, of the times of sale, which shall, in no case, be less than two months from the date of the notice, and the sales at the different places shall not commence within less than one month of each other, and when the governor of the western territory or Secretary of the Treasury shall find it necessary to adjourn, or suspend the sales under their direction respectively, for more than three days at any one time, notice shall be given in the public newspapers of such suspension, and at which time the sales will re-commence.

SEC. 6. That immediately after the passing of this act, the Secretary of the Treasury shall, in the manner herein before directed, advertise for sale the lands remaining unsold in the seven ranges of townships, which were surveyed in pursuance of an ordinance of Congress passed the twentieth of May, one thousand seven hundred and eighty-five,* including the lands drawn for the army by the late Secretary of War, and also those heretofore sold but not paid for. The townships, which by the said ordinance, are directed to be sold entire shall be offered for sale at public vendue in Philadelphia under the direction of the Secretary of the Treasury, in quarter townships, reserving the four center sections according to the directions of this act. The townships, which by the said ordinance are directed to be sold in sections, shall be offered for sale at public vendue in Pittsburgh, under the direction of the governor or secretary of the western territory, and such person as the President may specially appoint for that purpose, by sections of one mile square each, reserving the four centre sections as aforesaid. And all fractional townships shall also be sold in sections at Pittsburgh, in the manner and under the regulations provided by this act for the sale of fractional townships, provided always that nothing in this act shall authorize the sale of those lots which have been heretofore received in the townships already sold."

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* See 1 Vol. L. U. S. p. 568.

The following are the plats of descriptions of townships two and three, in range twenty-one, in the state of Ohio, taken from the return of thesurveyor general, refferred to, in the fourth instruction asked, to wit:

[Map comes in here.—See original page, 21.]

Description of Township No. 2, Range 21.

Posts.	Bearing trees.	Inches diameter	Course they bear.	Links dist't.	Quality of Land.
A	Sugar tree	6	Corner tree	-	From A to B, rich low bottom; timber, walnut, ash, boxelder, &c.
	W. Oak	18	N. 55 W.	12	
	Maple	6	S. 60 E.	22	
B	Boxelder	5	Corner tree	-	From B to C, hills rolling of flat land; timber, oak and hickory, &c.
	do	7	S. 16 W.	14	
	H. Locust	24	N. 16 E.	33	
C	W. Oak	14	S. 73 E.	32	From C to D, hills of pine knots of the worst sort.
	do	10	N. 20 E.	13	
D	Hickory	9	S. 49 W.	20	From D to E, over the worst pine knobs in the territory, and down and up a drain.
	do	14	N. 56 E.	39	
E	W. Walnut	12	S. 30 W.	16	From E to F, very hilly brushy land; timber, oak and pine &c.
	Lynn	18	N. 53 E.	30	
F	Red Oak	24	S. 53 E.	15	From F to G, broken hils and some flat land; timber; pine and hickory, &c.
	Sugar Tree	12	N. 50 E.	20	
G	B. Oak	20	S. 33 W.	11	From G to H, hills and flats; timber; oak, &c.
	Walnut	12	N. 86 E.	5	
H	S. Oak.	24	Corner tree	-	From H to I, poor hills; very little timber.
	Hickory	9	S. 57 W.	8	
	Dogwood	5	S. 61 E.	19	
I	C. Oak	12	N. 80 W.	19	From I to K, poor hills; timber; oak, undergrowth spice and dogwood.
	do	15	N. 88 E.	31	
K	Red Oak	24	S. 60 E.	14	From K to L, steep hills; timber; pine.
	R. Locust	7	N. 27 W.	17	
L	Pine	6	N. 65 W.	15	From L to M, steep poor hills; timber, pine.
	do	12	N. 30 E.	18	
M	Poplar	18	Corner tree	-	From M to N, steep poor hills, and timber, pine.
	Hickory	5	S. 6 W.	2	
	Gum	7	S. 9 E.	14	
N	Maple	24	S. 39 E.	11	From N to O, bushy steep hills; timber, pine.
	W. Oak	11	N. 3 W.	20	
O	S. Oak	3	Corner tree	-	From O to P, bushey steep hills; one chain, bottom; timber, pine.
	Red Oak	30	N. 70 W.	30	
	Pine	10	N. 47 W.	19	
P	W. Oak	9	Corner tree	-	From P to Q, bushy; steep hills, timber, pine.
	do	12	S. 70 W.	26	
	Hickory	6	N. 30 E.	38	
Q	Poplar	23	Corner tree	-	From Q to R, bushy steep hills; timber, pine.
	Red Oak	30	North	33	
	Poplar	24	East	39	
R	Locust	8	Corner tree	-	From R to S, steep pine hill, and low bottom cut with thoroughfares.
	C. Oak	14	N. 20 E.	55	
S	Buckeye	9	S. 4 W.	36	From S to T, low bottom.
	Boxelder	12	N. 4 E.	57	
T	Maple	6	N. 59 W.	9	From T to U, low bottom, cut by thoroughfares in several places.
	do	6	S. 59 E.	8	

STATEMENT—Continued.

Posts.	Bearing trees.	Inches diamater	Course they bear.	Links dist't.	Quality of Land.
U	Maple	4	Corner tree	-	From U to V, some high end, some rather low banks.
	do	4	South	3	
	do	6	North	7	
V	Sugar Tree	6	Corner tree	-	From V to A, high and low banks; narrows, high hills, &c.
	W. Oak	18	N. 55 W.	12	
	Maple	6	S. 60 E.	22	
W	Willow	8	S. 22 W.	19	
	Maple	30	N. 28 E.	64	
w	Hackberry	20	N. 75 E.	5	
	Walnut	18	West	25	
X	Maple	8	N. 34 E.	9	
	Maple	4	S. 71 W.	7	
Y	Sycamore	18	N. 89 W.	20	
	Sycamore	20	S. 9 W.	3	
Z	Maple	8	N. 80 E.	11	
	Maple	6	S. 80 W.	3	
z	Sugar	20	S. 70 E.	13	
	B. Oak	5	N. 15 W.	9	

Interior sect'n corners described. Quarter sect'n corners described.

Section corners.	Bearing tree.	Inches diameter	Course they bear.	Links dist.	Between sections.	Bearing trees.	Inches diameter	Course they bear.	Links dist.
2.3 10.11	W. Oak	9	Corner tree		9.10	B. Oak	15	N. 15 E.	19
	B. Oak	30	S. 57 E.	14		W. Oak	8	S. 76 W.	32
	Hickory	12	N. 65 W.	19	4.9	C. Oak	15	N. 39 E.	8
4.5 8.9	Pin Oak	8	S. 81 E.	24		C. Oak	15	S. 34 W.	19
	Poplar	12	N. 63 W.	11	3.10	W. Oak	12	N. 24 W.	24
11.12 13.14	B. Oak	5	Corner tree			W. Oak	15	S. 24 E.	11
	W. Oak	14	N. 65 E.	22	3.4	B. Oak	15	N. 15 E.	19
	B. Oak	4	S. 74 W.	18		W. Oak	8	S. 76 W.	32
10.11 14.15	B. Oak	18	S. 10 E.	16	1.2	B. Oak	10	N. 63 W.	8
	W. Oak	12	N. 28 W.	19		B. Oak	18	N. 39 E.	26
9.10 15.16	W. Oak	12	S. 11 W.	15	1.12	W. Oak	12	S. 46 E.	27
	Dogwood	6	N. 58 E.	9		Hickory	18	N. 27 W.	11
8.9 16.17	Pin Oak	4	N. 86 W.	5	2.11	R. Oak	20	Corner	
	do	4	S. 86 E.	10		Hickory	20	S. 27 W.	26
7.8 17.18	Huckb'ry	6	Corner tree			W. Oak	9	N. 71 E.	47
	Walnut	6	S. 12 E.	24	11.12	C. Oak	15	S. 8 E.	14
	H. Locust	24	N. 14 E.	33		C. Oak	8	S. 53 W.	10
14.15 22.23	Chesnut	24	N. 10 E.	36	13.24	W. Oak	8	N. 26 E.	37
	Poplar	18	S. 20 W.	27		Hickory	15	S. 10 W.	16
16.17 20.21	Red Oak	4	Corner tree		13.14	Dogw'd	4	N. 40 E.	12
	do	6	S. 15 30 E.	18		Maple	6	S. 85 W.	32
	do	6	N. 11 W.	32	23.24	B. Oak	24	S. 37 W.	6
23.24 25.26	Sycamore	12	Corner tree			W. Oak	15	N. 86 E.	4
	W. Oak	12	N. 15 W.	36	14.23	Hickory	9	N. 62 E.	16
	do	12	S. 25 E.	42		B. Oak	16	S. 36 E.	14
22.23 26.27	C. Oak	12	S. 70 E.	10	21.22	Pine	10	S. 88 W.	64
	do	12	N. 70 W.	38		C. Oak	8	N. 50 E.	44
21.22 27.28	Pine	4	Corner tree		15.22	B. Oak	6	S. 14 E.	9
	do	9	South	18		C. Oak	18	N. 62 E.	30
	do	12	N. 10 W.	33	16.21	W. Oak	10	N. 2 E.	6
						W. Oak	20	S. 7 E.	23
20.21 28.29	Sugar tree	15	N. 56 E.	18					
	Beach	14	S. 82 30 W.	36	15.16	W. Oak	15	N. 15 W.	36
19.20 29.30	Maple	9	Corner tree			W. Oak	10	S. 43 W.	17
	do	9	S. 35 E.	11	19.20	B Waln't	18	S. 86 E.	7
	do	9	N. 35 W.	11		B Waln't	12	N. 66 W.	23
26.27 34.35	C. Oak	5	Corner tree		17.20	Hickory	5	S. 33 W.	13
	do	15	East	2		Maple	6	N. 39 W.	9
	Hickory	6	S. 58 W.	22	17.18	Elm	8	S. 88 E.	9
28.29 32.33	Beech	13	Corner tree			B'xEld'r	4	S. 47 W.	24
	do	16	N. 79 E.	43	29.32	Mulb'ry	12	N. 10 W.	34

Section corners.	Bearing tree.	Inches diameter	Course they bear.	Links distant.	Return sections.	Bearing trees.	Inches diameter	Course they bear.	Links distant.
	Beach	18	N. 81 W.	20		Red Oak	36	S. 24 E.	33
3.4 9.10	B. Oak	24	S. 34 W.	21	31.32	Maple	18	S. 3 E.	30
	W. Oak	18	S. 49 E.	40		Sycamore	15	N. 40 E.	50
1.2 11.12	B. Oak	8	N. 31 W.	24	33.34	B. Oak	15	N. 83 W.	50
	Hickory	4	S. 12 W.	12		C. Oak	8	N. 46 E.	16
13.14 23.24	W. Oak	13	S. 54 E.	31	28.33	B. Oak	36	S. 80 W.	25
	W. Oak	20	S. 78 W.	16		W. Oak	12	N. 35 E.	9
15.16 21.22	B. Oak	6	Corner tree		27.34	Lynn	12	S. 50 W.	20
	Pine	12	S. 78 W.	60		Hornbean	6	N. 29 E.	25
	C. Oak	8	N. 50 E.	64	27.28	Dogwood	6	S. 80 E.	9
17.18 19.20	Ash	15	S. 54 E.	16		Hickory	15	N. 65 W.	20
	R. Bud	6	S. 43 W.	14	35.36	W. Oak	20	S. 77 E.	38
29.30 31.32	B. Elder	8	S. 17 W.	7		Poplar	18	S. 62 W	50
	Buckeye	8	N2 2 E.	23	25.36	Hickory	20	S. 57 W.	12
27.28 33.34	Chesnut	30	N. 81 E.	56		Hickory	8	N. 10 E.	8
	Poplar	30	N. 33 W.	11	26.35	Pine	12	S. 4 W.	22
25.26 35.36	W. Oak	8	N. 25 E.	21		R. Oak	15	N. 40 W.	24
	B. Oak	5	S. 35 W.	11	25.26	B. Oak	12	S. 82 W.	70
						Pine	15	S. 55 E.	66

(Map comes in here.—See original, page 26.)

Description of Township No. III, Range 21.

Posts.	Bearing trees.	Inches diam.	Course they bear.	Links dist.	Quality of Land.
A	Hickory	24	Corner tree		From A to B, rolling land; soil, tolerable; timber, oak.
	W. Oak, &c.	10	N. 4 E.	18	
	Hickory		S. 87 W.	16	
B	W. Oak	12	N. 38 E.	19	From B to C, rolling land; soil tolerable; timber, oak.
	do	15	S. 38 W.	36	
C	An Ash	4	S. 55 W.	19	From C to D, steep; poor; bushy; stony hills; timber, oak; chesnut-oak, and chesnut.
	W. Oak	14	N. 55 E.	36	
D	Maple	12	Corner tree		From D to E, poor; bushy; stony hills; timber, chesnut, chesnut-oak, and black-oak.
	Che'st Oak	12	S. 25 W.	20	
	do	9	S. 65 E.	37	
E	Dogwood	6	Corner tree		From E to F, bushy; poor hills; timber, chesnut, chesnut-oak, black-oak, &c.
	Chesnut	36	N. 57 E.	20	
	do	15	S. 73 W.	22	
F	Dogwood	6	S. 42 E.	46	From F to G, bushy hills; timber, chesnut-oak, chesnut, black-oak, &c.
	Sowerwood	9	N. 57 W.	40	
G	Poplar	8	S. 9 W.	15	From G to H, rolling hilly land; timber, oak, chesnut, and poplar.
	Maple	8	N. 7 E.	26	
H	W. Oak	18	Corner tree		From H to I, rough; bushy; poor hills; timber, shrub-oak, hickory, &c.
	do	15	S. 70 W.	20	
	Bl'k Oak	3	N. 70 E.	12	
I	Hickory	9	S. 6 W.	34	From I to K, poor; hilly land; timber, oak, and chesnut-oak.
	W. Oak	12	N. 37 E.	50	
K	B. Oak	24	Corner tree		From K to L, poor; hilly; brushy land; barreny.
	Poplar	9	S. 88 E.	9	
	Dogwood	9	S. 52 W.		
L	Poplar	6	Corner tree		From L to M, hilly; poor; brushy land; timber, some oak, and hickory, &c. *From*
	do	8	N. 56 W.	29	
	do	5	S. 7 E.	31	
M	Dogwood	6	S. 56 E.	20	From M to N, very hilly land; timber, black-oak and chesnut.
	W. Oak	18	N. 82 W.	27	
N	B. Oak	20	S. 33 W.	11	From N to O, hills broken; some flat land; timber, oak, pine, and hickory.
	Walnut	12	N. 86 E.	5	
O	Red Oak	24	S. 53 E.	15	From O to P, very hilly; bushy land; timber, oak, pine, &c.
	Sugartree	12	N. 50 E.	20	
P	W. Walnut	12	S. 30 W.	16	From P to Q, down and up a drain, and over the worst pine knobs in the territory,
	Sugartree	18	N. 55 E.	30	
Q	Hickory	9	S. 49 W.	20	From Q to R, hills and pine knobs of a very bad quality.
	do	14	N. 57 E.	39	
R	W. Oak	14	S. 73 E.	32	From R to S, rolling hills and flat lands; timber oak, and hickory, &c.
	do	10	N. 20 E.	13	
S	Boxelder	5	Corner tree		From S to T, rich low bottom; timber, walnut, ash, boxelder, &c.
	do	7	S. 16 W.	14	
	Locust	24	S. 16 E.	33	
T	Sugartree	6	Corner tree		From T to U, rich bottom; timber, walnut, ash, buckeye, &c.
	W. Oak	18	N. 55 W.	12	
	Maple	6	S. 60 E.	22	

STATEMENT—Continued.

Posts.	Bearing trees.	Inches diam.	Course they bear.	Links dist	Quality of Land.
U	An Ash	14	S. 40 E.	30	From U to V, rich bottom and high bank; timber, buckeye, boxelder, sycamore, &c.
	Hackberry	12	N. 35 E.	28	
V	Boxelder	10	S. 53 W.	13	From V to W, part broken, and part lays well; soil rich; V locust, walnut, ash, and oak.
	do	10	N. 20 E.	21	
W	W. Oak	20	N. 13 E.	8	From W to X, broken land; timber, oak, and hickory, &c.
	do	18	S. 75 W.	12	
X	W. Oak	12	Corner tree		From X to Y, broken land; timber, oak and hickory.
	W. Oak	12	N 23° 30' W	14	
	do	14	S 18° 30' E	28	*F*
Y	B. Oak	20	Corner tree		From Y to A, rolling and hilly land; timber, oak.
	Hickory	18	S. 25° W.	15	
	B. Oak	24	S. 51 E.	21	

Interior Sec., Corners described.					*Quarter Sec., Corners described.*				
Section corners.	Bearing trees.	Inches diam.	Course they bear.	Links dist.	Between sections.	Bearing trees.	Inches diam.	Course they bear.	Links dist.
2.3 10.11	W. Oak	15	Corner tree		19.20	Hickory	12	N. 69 E.	12
	Poplar	36	S. 60 E.	12		Sugar	24	S. 51 W.	31
	W. Oak	12	N. 38 W.	32	18.19	Sugar	9	North	11
4.5 8.9	Poplar	3	S. 81 E.	6		W. Oak	24	S. 43 E.	18
	do	4	N. 81 W.	12	17.20	Dogwood	3	S. 67 W.	10
11.12 13.14	Red Bud	4	S. 28 E.	12		Elm	6	N. 22 E.	14
	W. Walnut	4	N. 10 E.	23	17.18	C. Oak	8	N. 56 E.	22
10.11 14.15	W. Oak	12	S. 38 E.	60		C. Oak	15	S. 9 E.	32
	Dogwood	6	S. 75 W.	18	7.8	W. Oak	24	N. 41 E.	16
						W. Oak	18	S. 45 W.	32
9.10 15.16	Chesnut	12	Corner tree		6.7	B. Oak	18	S. 45 W.	16
	B. Oak	9	S. 15 E.	13		W. Oak	18	N. 61 W.	55
	Chesnut	12	N. 15 W.	13	5.8	Hickory	10	N. 83 E.	15
8.9 16.17	W. Oak	6	Corner			W. Oak	20	S. 30 E.	25
	do	10	West	8					
	do	12	S. 59 E.	34	5.6	W. Oak	8	S. 86 E.	55
7.8 17.18	Gum	5	Corner tree			B. Oak	6	S. 80 W.	40
	Maple	12	East	17	21.22	C. Oak	6	S. 49 W.	24
	Hickory	18	S. 30 W.	17		C. Oak	10	S. 59 E.	18
14.15 22.23	Hickory	5	Corner tree		16.21	B. Oak	18	N. 85 W.	28
	W. Oak	20	S. 75 E.	21		B. Oak	15	S. 40 E.	10
	Hickory	9	New W.	36	15.22	C. Oak	20	N. 37 E.	16
						C. Oak	12	S. 3 W.	21
16.17 20.21	Hickory	6	S. 64 30 W.	8	15.16	C. Oak	24	N. 85 W.	25
	do	6	N. 64 30 E.	5		B. Oak	30	S. 50 E.	22
23.24 25.26	W. Oak	18	N. 52 E.	18	3.10	W. Oak	18	S. 63 W.	33
	Hickory	5	N. 21 E.	25		Chesnut	12	N. 42 W.	11
					3.4	Ash	5	N. 89 E.	14
22.23 26.27	Chesnut	36	N. 68 W.	19		Chesnut	10	N. 81 W.	18
	Walnut	9	N. 85 E.	29	9.10	W. Oak	12	S. 19 E.	20
						W. Oak	20	S. 83 W.	15
21.22 27.28	B. Oak	36	S. 80 W.	29	4.9	Sourwood	6	Corner	
	Hickory	10	N. 74 W.	38		Gum	5	N. 50 E.	12
20.21 28.29	Poplar	9	S. 82 30 E.	6		Gum	6	S. 32 E.	8
	B. Oak	5	N. 82 30 W.	13	11.12	W. Oak	10	S. 65 W.	5
19.20 29.30	W. Oak	9	S. 40. W.	21		W. Oak	12	S. 87 E.	17
	Hickory	7	N. 70 W.	24	1.12	W. Oak	20	S. 4 W.	40
26.27 34.35	An Ash	6	Corner tree			Maple	10	N. 35 E.	17
	W. Oak	5	S. 47 W.	4	2.11	Red Oak	20	N. 43 W.	50
	Hickory	9	N. 60 E.	14		R. Oak	24	S. 13 W.	50
28.29 32.33	Hickory	5	Corner tree		1.2	W. Oak	15	S. 80 E.	36
	do	5	S. 33 E.	8		Hickory	10	S. 74 W.	35
	do	4	N. 33 30 W.	22	13.24	Dogwood	5	S. 6. W.	10
17.18 19.20	Ash	20	N. 37 E.	9		W. Oak	15	N. 52 E.	37

STATEMENT—Continued.

Section corners.	Bearing trees.	Inches diam.	Course they bear.	Links dist.
	Sycamore	36	S. 42 E.	41
5.6 7.8	W. Oak	12	S. 48 W.	24
	W. do	8	N. 64 W.	9
15.16 21.22	B. Oak	6	N. 24 E.	17
	B. Oak	9	S. 12 E.	15
3.4 9.10	C. Oak	18	S. 39 W.	40
	Sourwood	8	N. 58 E.	20
1.2 11.12	W. Oak	15	S. 88 W.	9
	W. Oak	12	N. 43 E.	17
13.14 23.24	Chesnut	12	S. 38 W.	30
	B. Oak	12	N. 46 E.	8
25.26 35.36	Dogwood	4	N. 14 W.	29
	Poplar	10	S. 45 W.	25
27.28 33.34	W. Oak	24	N. 32 E.	33
	W. Oak	15	S. 33 E.	47

Between sections.	Bearing trees.	Inches diam.	Course they bear.	Links dist.
13.14	B. Oak	8	S. 62 W.	18
	B. Oak	12	N. 45 E.	14
23.24	W. Oak	18	N. 84 E.	16
	Hickory	24	N. 52 W.	25
14.23	W. Oak	12	S. 37 W.	37
	W. Oak	15	N. 25 E.	25
25.36	Chesnut	20	S. 72 W.	26
	Chesnut	30	N. 53 E.	23
25.26	Hickory	4	N. 65 E.	8
	Poplar	15	S. 78 W.	53
35.36	Chesnut	6	N. 41 W.	17
	W. Oak	15	S. 50 E.	20
26.35	B. Oak	15	N. 45 E.	31
	Gum	6	S. 20 W.	17
33.34	W. Oak	15	N. 24 E.	7
	W. Oak	18	S. 53 W.	43
27.34	C. Oak	12	S. 80 W.	37
	Span. Oak	18	N. 88 E.	17
28.33	W. Oak	22	N. 35 W.	27
	Hickory	10	S. 2 W.	32
27.28	B. Oak	30	N. 31 W.	60
	B. Oak	30	N. 50 E.	58

GENERAL LAND OFFICE.

I do certify, that the four sheets hereunto annexed, contain true copies of the plats and descriptions of townships two and three, in range twenty-one, in the State of Ohio, from the return of the Surveyor General now in this office.

[GEN'L LAND OFFICE SEAL.]

In testimony whereof, I have hereunto signed my name, and caused the seal of this office to be affixed at the city of Washington, this eleventh day of June, A. D. 1833.

JOHN M. MOORE
Acting Commissioner of the General Land Office.

The 1st, 2nd, 3d, and 4th sections of an act of Congress, amendatory of the above recited act of May 18th, 1796, approved May 10th, 1800, read as follows—referred in No. 5, of instructions requested.

"Sec. 1. That for the disposal of the lands of the United States, directed to be sold by the act, entitled "An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky river," there shall be four land offices established in the said territory; one at Cincinnatti, for lands below the Little Miami, which have not heretofore been granted; one at Chillicothe, for lands east of the Scioto, south of the lands appropriated for satisfying military bounties to the late army of the United States, and west of the fifteenth range of townships; one at Marietta, for the lands east of the sixteenth range of townships, south of the before mentioned military lands, and south of a line drawn due west from the northwest corner of the first township of the second range, to the said military lands; and one at Steubenville, for the lands north of the last mentioned line, and east or north of the said military lands. Each of the said officers shall be under the direction of an officer to be called "the register of the land office," who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall give bond to the United States, with approved security, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office; and shall reside at the place where the land office is directed to be kept.

Sec. 2. That it shall be the duty of the surveyor general, and he is hereby expressly enjoined, to prepare and transmit to the registers of the several land offices before the days herein appointed for commencing sales, general plats of the lands hereby directed to be sold at the said offices respectively; and also to forward copies of each of said plats to the Secretary of the Treasury.

Sec. 3. That the surveyor general, shall cause the townships west of the Muskingum, which, by the above mentioned act, are directed to be sold in quarter-townships, to be subdivided into half sections of three hundred and twenty acres each, as nearly as may be, by running parallel lines through the same, from east to west, and from south to north, at the distance of one mile from each other, and marking corners, at the distance of each half mile on the lines running from east to west, and at the distance of each mile on those running from south to north; and making the marks, notes and descriptions, prescribed to surveyors by the above mentioned act; and the interior lines of townships, intersected by the Muskingum, and of all the townships lying east of that river, which have not been heretofore actually subdivided into sections, shall also be run and marked in the manner prescribed by the said act, for running and marking the interior lines of townships, directed to be sold in sections of six hundred and forty acres each; and in all cases where the exterior lines of the townships, thus to be subdivided into sections or half sections shall exceed, or shall not extend six miles, the excess on deficiency, shall be specially noted, and added to or deducted from

2. The 1st, 2d, 3d, and 4th sections of an act of Congress, amendatory of the above recited act of May 18th, 1796, approved May 10th, 1800, and in the words and figures following:

Sec. 1. That for the disposal of the lands of the United States, directed to be sold by the act intituled "An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky river," there shall be four land offices established in the said territory: one at Cincinnati, for lands below the Little Miami which have not been heretofore granted; one at Chillicothe, for lands east of the Scioto, south of the lands appropriated for satisfying military bounties to the late army of the United States, and west of the fifteenth range of townships; one at Marietta, for the lands east of the sixteenth range of townships, south of the tenth township of the fifth range, and south of a line drawn due west from the northwest corner of the first township of the second range, to the said sixteenth range; and one at Steubenville, for the lands north of the last mentioned line and east or north of the said military lands. Each of the said offices shall be under the direction of an officer, to be called "The Register of the Land Office," who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall give bond to the United States with approved security, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office; and shall reside at the place where the land office is directed to be kept.

Sec. 2. That it shall be the duty of the surveyor general, and he is hereby expressly enjoined, to prepare and transmit to the registers of the several land offices, before the days herein appointed for commencing sales, general plats of the lands hereby directed to be sold at the said offices respectively; and also a connected copy of each of said plats to the Secretary of the Treasury.

Sec. 3. That the surveyor general, shall cause the townships west of the Muskingum, which by the above-mentioned act, are directed to be sold in quarter townships, to be subdivided into half sections of three hundred and twenty acres each, as nearly as may be, by running parallel lines through the same from east to west, and from south to north, at the distance of one mile from each other, and marking corners, at the distance of each half mile on the lines running from east to west, and at the distance of each mile on those running from south to north, and making the marks, notes and descriptions, prescribed to surveyors by the above-mentioned act; and the interior lines of townships intersected by the Muskingum, and of all the townships lying east of that river, which have not been heretofore actually subdivided into sections, shall also be run and marked in the manner prescribed by the said act, for running and marking the interior lines of townships directed to be sold in sections of six hundred and forty acres each; and in all cases where the exterior lines of the townships, thus to be subdivided into sections or half sections, shall exceed, or shall not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from

the western and northern ranges of sections or half sections in such township, according as the error may be, in running the lines from east to west, or from south to north; the sections and half sections, bounded on the northern and western lines of such townships, shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the complete legal quantity; and the President of the United States shall fix the compensation of the deputy surveyors, chain carriers, and axe men, provided the whole expense of surveying and marking the lines, shall not exceed three dollars for every mile that shall be actually run, surveyed and marked.

Sec. 4. That the lands thus subdivided, (excluding the sections reserved by the above mentioned act,) shall be offered for sale in sections and half sections, subdivided as before directed, at the following places and times, that is to say; those below the little Miami, shall be offered at public vendue in the town of Cincinnati, on the first Monday of April, one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the governor or secretary of the northwestern territory; the lands east of Scioto, south of the military lands, and west of the fifteenth range of townships, shall be offered, in like manner for sale at Chillicothe, on the first Monday of May, one thousand eight hundred and one, under the direction of the register of the land office there established, and of either the governor or secretary of the said territory; the lands east of the sixteenth range of townships, south of the military lands, and west of the Muskingum, including all the townships intersected by that river, shall be offered for sale in like manner at Marietta, on the last Monday of May, one thousand eight hundred and one, under the direction of the governor or secretary or surveyor general of the said territory. The sales shall remain open at each place for three weeks and no longer.

The superintendent shall observe the rules and regulations of the above mentioned act, in classing and selling fractional with entire sections, and in keeping, and transmitting accounts of the sales. All lands remaining unsold at the closing of either of the public sales, may be disposed of at private sale by the registers of these respective land offices, in the manner hereinafter prescribed; and the register of the land office at Steubenville, after the first day of July next, may proceed to sell at private sale the land situate within the district assigned to his direction, as hereinbefore described, disposing of the same in sections, and classing fractional with entire sections, according to the provisions and regulations of the above mentioned act, and of this act; and the register of the land office at Marietta, after the said first day of July next, may proceed to sell at private sale any of the lands within the district assigned to his direction as aforesaid, which are east of the river Muskingum, excluding the townships intersected by that river, disposing of the same in sections, and classing fractional with entire sections as aforesaid.

The ninth and tenth sections of an act of Congress, approved, March 26th, 1804, reffered to in the sixth instruction asked, is as follows, to wit:

"Sec. 9. That fractional sections of the public lands of the United States, either north of the river Ohio, or south of the State of Tennessee, shall, under the directions of the Secretary of the Treasury, be either sold singly, or by uniting two or more together; any act to the contrary notwithstanding: Provided, that no fractional sections shall be sold in that manner until after they shall have been offerred for sale to the highest bidder in the manner hereinafter directed.

Sec. 10. That all the public lands of the United States, the sale of which is authorized by law, may, after they shall have been offerred for sale to the highest bidder in quarter sections, as hereinafter directed, be purchased, at the option of the purchaser, either in entire sections, in half sections, or in quarter sections, in which two last cases, the sections shall be divided into half sections, by lines running due north and south, and the half sections shall be divided into quarter sections by lines running due east and west. And in every instance, in which a subdivision of the lands of the United States, as surveyed in conformity with the law, shall be necessary to ascertain the boundaries or true contents of the tract purchased, the same shall be done at the expense of the purchaser."

The thirteenth section of an act of Congress, approved March 26th, 1804, refferred to in the seventh instruction asked, is as follows, to wit:

"Sec. 13. That whenever any of the public lands shall have been surveyed in the manner directed by law, they shall be divided by the Secretary of the Treasury into convenient surveying districts, and a deputy surveyor shall, with the approbation of the said Secretary, be appointed by the surveyor general for each district, who shall take an oath or affirmation, truly and faithfully to perform the duties of his office; and whose duty it shall be to run and mark such lines as may be necessary, for subdividing the lands surveyed as *as* aforesaid, into sections, half sections, quarter sections, as the case may be, to ascertain the true contents of such subdivisions, and to record, in a book to be kept for that purpose, the surveys thus made. The surveyor general shall furnish each deputy surveyor with a copy of the plat of the townships, and fractional parts of townships contained in his district, describing the subdivisions thereof, and the marks of the corners. Each deputy surveyor shall be entitled to receive from the purchaser of any tract of land, of which a line or lines shall have been run and marked by him, at the rate of three dollars for every mile thus surveyed and marked, before he shall deliver to him a copy of the plat of such tract, stating its contents. The fees payable by virtue of former laws, for surveying expenses, shall, after the first day of July next, be no longer demandable from, and paid by the purchasers. And no final certificate shall hereafter be given by the register of any land office, to the purchaser of any tract of land, all the lines of which shall not have been run, and the contents ascertained by the surveyor general or his assisstants, unless

such purchaser shall lodge with said register a plat of such tract certified by the district surveyor."

The first, second, and third sections of an act of Congress, approved 11th February, 1805, ref*ferr*ed to in No. 8, of instructions requested, is as follows, viz.

SEC. 1. That the surveyor general shall cause all those lands north of the river Ohio, which, by virtue of the act, entitled "An act providing for the sale of the lands of the United States, in the territory northwest of the river Ohio, and above the mouth of Kentucky river," were subdivided, by running through the townships parallel lines each way, at the end of every two miles; and by marking a corner on each of the said lines at the end of every mile, to be subdivided into sections, by running straight lines, from the mile corners thus marked, to the opposite corresponding corners, and by marking on each of the said lines intermediate corners, as nearly as possible equi-distant from the corners of the sections on the same. And the said surveyor general shall also cause the boundaries of all the half sections which had been purchased previous to the first day of July last, and on which the surveying fees had been paid according to law by the purchaser, to be surveyed and marked, by running straight lines from the half mile corners heretofore marked, to the opposite corresponding corners; and intermediate corners shall, at the same time, be marked on each of the said dividing lines, as nearly as possible equi-distant from the corners of the half section on the same line: Provided, that the whole expense of surveying and marking the lines, shall not exceed three dollars for every mile, which has not yet been surveyed and which shall be actually run, surveyed and marked, by virtue of this section. And the expense of making the subdivisions directed by this section, shall be defrayed out of the monies appropriated, or which may be hereafter appropriated, for completing the surveys of the public lands of the United States.

SEC. 2. That the boundaries and contents of the several sections, half sections, and quarter sections, of the public lands of the United States, shall be ascertained in conformity with the following principles, any act or acts to the contrary notwithstanding.

1st. All the corners marked in the surveys, returned by the surveyor general, or by the surveyor of the land south of the State of Tennessee, respectively, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half and quarter sections, not marked on the said surveys shall be placed as nearly as possible equi-distant from those two corners which stand on the same line.

2d. The boundary lines actually run and marked in the surveys returned by the surveyor general, or by the surveyor of the land south of the State of Tennessee, respectively, shall be established as the proper boundary lines of the sections or subdivisions for which they were intended; and the length of such lines, as returned by either of the surveyors aforesaid, shall be held and considered as the true length thereof. And the boundary lines which shall not have been actually run and marked as aforesaid, shall be ascertained by running straight lines from the established corners to the opposite corresponding corners; but in those portions of fractional township, when no such corresponding corners have been or can be fixed, the said boundary lines shall be ascertained by running, from the established corners, due north and south, or east and west lines, as the case may be, to the water course, Indian boundary line, or other external boundary of such fractional township.

3d. Each section, or subdivision of section, the contents whereof, shall have been, or by virtue of the first section of this act, shall be returned by the surveyor general, or by the surveyor of the public lands south of the State of Tennessee, respectively, shall be held and considered as containing the exact quantity expressed in such return or returns; and the half sections and quarter sections, the contents whereof shall not have been thus returned, shall be held and considfered as containing one-half, or the one-fourth part respectively, of the returned contents of the sections of which they make part.

Sec. 3. That so much of the act, entitled "An act making provision for the disposal of the lands in the Indian territory, and for other purposes," as provides the mode of ascertaining the true contents of sections, or subdivisions of sections, and prevents the issue of final certificates, unless the said contents shall have been ascertained, and a plat certified by the district surveyor, lodged with the register, be, and the same is hereby, repealed."

The following are copies of the plats and descriptions of said two townships, numbered, 2 and 3, in range 21, certified by General Mansfield, surveyor general, and on file in the register's office at Chillicothe, ref*f*erred to in the tenth instructions asked, to wit:

[For Plat, No. 1, Laugham's Survey, see original page 39.]

Description of Sections Nos. 29, 30, 31, 32, *in Town. No.* 3, *of Range* 21.

LAUGHAM'S SURVEY.

Posts.	Bearing trees.	Inches diam.	Course they bear.	Links dist.	Quality of the Land.
R	W. Oak	14	S. 73 E.	32	From R to S, hills; rolling and flat land; timber, oak, hick., &c.
	do	10	N. 20 E.	13	
S	Boxelder	5	Corner tree		From S to T, rich low bottom; timber, walnut, ash, boxelder, &c.
	do	7	S. 16 W.	14	
	Locust	24	S. 16 E.	33	
T	Sugar tree	6	Corner tree		From T to U, rich bottom; timber, walnut, ash, buckeye, &c.
	W. Oak	18	N. 56 W.	12	
	Maple	6	S. 60 E.	22	
U	Au. Ash	14	S. 40 E.	30	From U to V, rich bottom and high bank; tim'r, buckeye, boxelder, sycamore, &c.
	Hackberry	12	N. 35 E.	28	
Z	Sycamore	36	Corner tree		
	do	36	S. 39 W.	6	
	Elm	12	S. 21 E.	7	
V	Boxelder	10	S. 53 W.	13	From V to W, part broken, and part lies well; soil rich; tim'r, locust, walnut, ash, &c.
	do	10	N. 20 E.	21	
19.20 29.30	W. Oak	9	S. 40 W.	21	From 20 to 29, rolling land; steep hills; and tim'r, W. oak, &c.
	Hickory	7	N. 70 W.	24	19.30, level land, 60 acres; rest broken, tim., elm, hick., &c.
20.21 28.29	Poplar	9	S. 82 30' E.	6	
	B. Oak	5	N. 82 30 W.	13	28.29 hilly and rolling land; timber, oak, hickory, &c.
28.29 32.33	Hickory	5	Corner tree		32–33, rolling land; tim'r, oak, hick., dogwood, &c.
	do	5	S. 33 E.	8	
	do	4	N. 33½ W.	22	

Description of Sections 5, 6. 7, 8, *in Town. No.* 2, *of Range No.* 21.

LAUGHAM'S SURVEY.

Posts.	Bearing	Inches diam.	Course they bear.	Links dist.	Quality of Land.
A	Sugar tree	6	Corner tree		From A to B, rich low bottom; timber, walnut, ash, boxelder, &c.
	W. Oak	18	N. 55 W.	12	
	Maple	6	S. 60 E.	22	
B	Boxelder	5	Corner tree		From B to C, hilly, rolling, and flat land; timber, oak, hickory, &c.
	do	7	S. 16 W.	14	
	H. Locust	24	N. 16 E.	33	
C	W. Oak	14	S. 73 E.	32	
	do	10	N. 20 E.	13	
V	Sugar tree	6	Corner tree		From V to A, high and low banks. narrows, high hills, &c.
	W. Oak	18	N. 55 W.	12	
	Maple	6	S. 60 E.	22	
4.5 8.9	Pin Oak	8	S. 81 E.	24	
	Poplar	12	N. 63 W.	11	
8.9 16.17	Pin Oak	4	N. 86 W.	5	
	do	4	S. 86 E.	10	
7.8 17.18	Hackberry	6	Corner tree		
	Walnut	6	S. 12 E.	24	
	H. Locust	4	N. 14 E.	33	

LAND OFFICE AT CHILLICOTHE,
September 9th, 1834.

I do certify the within to be true copies from the original plats and descriptions certified to this office, by the surveyor general of lands of the United States, of sections No. 29 and 32, and fractional sections No. 30 and 31, in township No. 3, of range No. 21, and of fractional sections No. 5, 6, 7, 8, in township No. 2, of range No. 21, made and returned by Laugham, deputy surveyor, in 1799, in pursuance of the act of Congress, approved 19 May, 1796.

THOMAS SCOTT, *Register.*

[For Plat, No. 2, Denny's Survey, see original page 41.]

Description of Secs. 29, 30, 31, 32, *T.* 3, *R.* 21.

DENNY'S SURVEY.

Post.	Bearing trees.	Inches diam.	Course they bear.	Links dist.
A	Cherry tree	30	S. 64° E.	47
	Hackberry	8	N. 1 E.	78

Description of Secs. 5, 6, 7, 8, *T. No.* 2, *of R. No.* 21.

DENNY'S SURVEY.

Posts.	Bearing trees.	Inches diam.	Course they bear.	Links dist.
A				
B	Sugar tree	20	S. 70 E.	13
	B. Oak	5	N. 15 W.	9
D	Maple	8	N. 80 E.	11
	Ditto	6	S. 80 W.	3

LAND OFFICE AT CHILLICOTHE, OHIO,
September 9*th*, 1834.

I certify the within to be true copies of the plats and descriptions of the subdivisions made by James Denny, D. S., of sections No. 29 and 32, and of fractional sections Nos. 30 and 31, in township No. 3, of range No. 21, and of fractional sections Nos. 5, 6, 7, and 8, in township No. 2, of range No. 21, and certified to by him, January 1st, 1806, as hereinafter mentioned. And I do further certify, that the plats and description of the subdivisions of township No. 2 and 3, of range No. 21, from which the within copies are taken, remain on file in this office, and that they are the only official evidence of the subdivision of sections in the aforesaid townships No. 2 and 3, of range No 21; there is added, in the handwriting of said James Denny, D. S., and certified to be "a true copy" by "Jared Mansfield, Sur. General," a certificate in the words and figures following, to wit:

"Pursuant to a contract with, and instructions from, Jared Mansfield, Surveyor General of the United States, bearing date the day of July, 1805, I have admeasured, laid out, and surveyed, and subdivided, the above township or tract, and do hereby certify, that it has such marks and bounadries, both natural and artificial, as are represented on the said plat, and described in the field notes made thereof, and returned with the plats into the surveyor general's office.

Certified this day, first day of January, A. D. 1806.

JAMES DENNY, *D. S.*

True copy.

JARED MANSFIELD, *Sur. General.*

Attest:

THOMAS SCOTT, *Register.*

[For Plat, see original page 42.]

February Term, 1834.

SCIOTO COMMON PLEAS.

SAMUEL REED,
vs.
WILLIAM MARSH. } In Ejectment.

At a court of common pleas, continued and held in and for the county of Scioto, at the court-house thereof, in the town of Portsmonth, on Friday the twenty-eighth day of February, in the year of our Lord one thousand eight hundred and thirty-four, and of our State the thirty-second. Present the Honorable Thomas Irvin, President, Judge of our said court; Samuel Crull, William Givens, and Joseph Moore, Esquires, his associates.

By consent of the parties, it is ordered by the court here, that the surveyor of this county, taking to his assistance the necessary aid, do on the first Monday of May next, if fair, and if not, the next fair day, go upon the lands in question, and lay off the same, as either party may direct, having due regard to the evidences of claim produced by them, and return four fair plats and certificates thereof, to the clerk's office, five days previous to the next term of this court. And the sheriff of this county, if required, is hereby commanded to attend and remove force, should any be offered, and this cause is continued.

THE STATE OF OHIO, *Scioto county. ss.*

I, John R. Turner, clerk of the court of common pleas, in and for said county, do certify, that the foregoing is a true copy from the journal record.

In testimony whereof, I have hereunto set my name, and affixed the seal of our said court at the town of Portsmouth,
[SEAL.] March 12th, 1834, and of our State the 32d.
A true copy.

JOHN R. TURNER,
Clerk.

In pursuance of the order of court, of which the foregoing is a true copy, I went upon the land in question, on the first Monday, the 5th of May, 1834, and taking to my assistance, Thomas Strong, and Abisha Darlington, for chain carriers, disinterested men, who were duly sworn according to law, before entering upon their duty, and commenced surveying, (agreeable to the directions of Samuel Reed,) at a stake and stone northwest corner of section No. 5, and northeast corner of section No. 6, from which a boxelder, 14 inces in diameter bears south, 16° W. 14 links, a honey-locust, 24 inches diameter, bears 16° E. 43 links, (a sugar tree, 8 inches in diamater, bearing N. 48° W. 47 links, has the appearance in the bark of old marks made with a marking iron, but said letters and figures, are now rendered unintelligible by the *ruffness* of the bark,) said corner was pointed out to me by David Sheppard and Daniel Kirkendall, who under oath pointed out the same to me as the place where the original boxelder corner, made on the north line of township 2, between fractional sections 5 and 6, in range 21, of survey by Elias Laugham, formerly stood, reference being had to the letter B, on the annexed plat or diagram, (1st page,) its relative position will more fully appear; from thence run south 195 rods to the Scioto river; and in said line come to a white walnut tree, 18 inches in diameter, at sixty-one and-a-half rods, from which we took a block, (marked No. 1,) from the north side of the tree, and at 96½ rods, a sycamore, 3 feet in diameter, appears to have been marked on the south side, crossing a thoroughfare, or an old bed of a river, at 99 rods, and at 130½ rods, a hickory, 10 inches diameter, and well marked, bears one and-a-half rods west of the south corner; (we blocked said tree, and marked the block, No. 2,) and down the declivity into the low bottom, at 136 rods, and a clump of 5 stumps, and seven maples of different sizes, from 12 to 24 inches in diameter, (there was formerly 12 in the cluster,) bears east 2 rods, from the line of the Scioto river, from thence the mouth of the thorougfare, is up the river 128 rods, on a straight line. Tuesday morning, May 6th, we ran the same line again from B, to J, by consent of parties, and found the distance the same as aforesaid, then returned to the corner at B, (on the diagram,) and run east on the township line from B to C, 422 rods, passing a hickory in the line at 40 rods, on which David Sheppard recognised their old marks, made in Laugham's survey, to a plum tree, 4 inches in diameter, at 105¼ rods, came to the west side of the pond at 158 rods, to the noted elm on the east side of the pond at 177 rods, (corner of a piece of land owned by the heirs of Elizabeth Rankin, dec'd, from which another elm, thirteen inches in diameter, bears N. 46° W. 35½ links, an oak 24 inches in diameter, bears S. 51° W. 47 links, crossing the road leading from Portsmouth to Chillicothe, at 192 rods, thence over a rise of ground, and down to a branch or small creek, at 292 the bed of the stream is two rods wide. Another small run at 373 rods, and a branch of the same at 380 rods,) to a stake at C, from which a white oak, 14 inches in diameter, bears N. 20° E. 13 links, a white oak, 20 inches in diameter, bears S. 73° E. 32 links; thence south 328 rods, and varied 7 rods to the left of the stake and stone at the corner marked D on the diagram, making the true course, S. 1° 13' west from C to D, passing the northeast corner of Leonard Groniger's tract, at 48½ rods, a small drain at 56 rods to Groniger's run, (so called) at 100 rods, the run 2½ rods wide, crossing a small branch in the hill, at 117 rods, and opposite a sugar tree, 18 inches in diameter, corner between Samuel Reed, and the heirs of Jacob Groniger, dec'd, at 132¼ rods, a small run in the hill at 202 rods, crossing a branch at 236 rods, and another fork of the same at 243 rods, and at 361 rods passed an ash, 10 inches in diameter, corner to the 80 acres entered by William Marsh in the south part of section No. 5, crossing the ridge of the hill at 316 rods, to the stake and stones, southeast corner of the 80 acres entered by William Marsh, from which a poplar, 5 inches in diameter, bears N. 30° W. 12 links, a poplar 10 inches in diameter, bears N. 54 W. 17 links, a pin oak three inches in diameter, bears N. 56° E. 12 links; (and adjourned to meet at the elm, east side of the pond, to-morrow morning at 8 o'clock.)

Wednesday, 17th of May, 1834, commenced at the elm, in the township line in the east side of the pond, agreeable to the directions of William Marsh, and run S. 0° 30′ W. 261¾ rods to the Scioto river, passing Leonard Groniger's northwest corner, at 48 rods 7 links, (at 40 rods found the old marked line, and one rod west of my course; and between 50 and 100 rods, found the trees marked in my course again,) passed a stone at 109¾ rods, corner to the aforesaid Groniger's land at 147 rods, passed on the east side of a hickory, near the southwest corner of the land formerly owned by Jacob Groniger's heirs, crossing Groniger's run at 150 rods, and at 160 rods, and again at 183 rods, and at 190 rods to it again, at 194 rods, and across at 196 rods for the last time, passing the corner of Marsh's 80 acres, at 259 rods 5 links from which a maple 12 inches in diameter, bears N. 57° W. 14½ links. a sycamore 15 inches in diameter, bears east 53 links, from this corner to the Scioto river, where the two maples at I, (on the diagram) formerly stood is 2½ rods south. We then went up the river to the corner, near the maples, (marked J on the diagrams,) and run down with the Scioto S. 60° E. 36 rods, S. 80° E. 54 rods, S. 64° 15′ E. 152 rods, (crossing the mouth of Groniger's run at 72 rods, to the line we ran through from the elm to the Scioto river, at the west end of William Marsh's 80 acre tract at 99 rods, crossing Little run at 134 rods,) thence S. 50° E. 48 rods, S. 12° E. 6 rods, 20 links to a stake from which a red oak 13 inches in diameter, bears N. 22° W. 57 links a red oak 4 inches in diameter, bears N. south 61 links, this corner stands between the road and the river, and marked H on the diagram. Thence from H to D, S. 89° 15′ E. 155 rods 14 links to the stake and stone at D, (crossing the road at 2 rods, then up a steep hill, passing south side of the cave in the cliff of rocks at 54 rods, crossing the top of the first hill at an old blazed oak at 73½ rods, then down over a deep hollow, and up another hill at 139 rods, a chesnut oak 15 inches in diameter, bears south 3 rods, blocked said tree, and marked the block No. 3. Thence west to the southwest corner of section No. 8, and set a stake where the original field notes

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represent the corner to have been, a hackberry 6 inches in diameter, corner tree from which a w. walnut 6 inches ditto, bearing S. 12° E. 24 links, and a honey-locust 24 inches in diameter, N. 14° E. 33 links, all of which are missing, except the honey-locust which is rapidly decaying, a mulberry nine inches in diameter, bearing N. 74 W. 3 rods 19 links, had the number of the township and section marked thereon, we marked additional witness trees, to wit, a black walnut 9 inches in diameter, S. 68 E. 14 links, a hickory 4 inches do. N. 27° E. 26 links, thence run north 652 rods, come to a pond at 38 rods, and ofset 4 rods west, to clear the pond, and at 60 rods ofset back into the line again on the north side of the pond, come to the Scioto river at 221 rods to the north side, at 242 rods to the Scioto again, at 416 rods over, at 443 rods, and from thence 209, north to the township line, making the whole distance 652 rods, and came out 29 rods east of Laugham's corner, and 148 rods west of the noted elm, on east side of the pond, and adjourned for the night.

And met, agreeable to directions of Samuel Reed, at the southwest corner of section No. 8, on Thursday morning, May 8th, 1834, and ran the south line of section 8 (from F to E on the diagram) come to the west side of the pond at 23 rods, to the east side at 35 rods, rising out of the bottom at 206 rods, crossing the road at 278 rods, come to an ash marked, on the east side of the road at 279 rods, then up a steep cliff at 321 rods, and to the top of the ridge at 330 rods, then down over the head of a deep hollow at 366 rods, and come to the corner on the west side of the hill near the top at 370 rods. Set up a stone at the corner from which a pin oak 8 inches in diameter, bears N. 86, W. 5 links, a pin oak 4 inches in diameter, bearing S. 86, E. 10 links, being dead we marked a pin oak 6 inches in diameter for a witness, bearing N. 68, E. 14 links; thence we run north 328 rods, to the line between section 5 & 8, 6 rods and 3 links west of the corner, (crossing the top of the ridge at 6 rods, crossing a branch at 161 rods, and by consent of parties adjourned *sine di.*

Section 5 to the Boxelder corner, in Laugham's survey, contains $728\frac{42}{100}$ acres, and the part between a south line from Laugham's corner and Lucas's line, running 50° 30′ west from the noted elm, contains $252\frac{18}{100}$ acres.

THE STATE OF OHIO, *Scioto county, ss.*

I, Samuel Dole, surveyor of Scioto county, do certify that the foregoing is a true copy from the minutes of survey made by me in pursuance of the aforesaid order of court. In testimony whereof I have hereunto set my name, this 10th day of June, A. D. 1834, and of our State the 32nd.

SAMUEL DOLE.

Surveyors fees	$12 00
Chain carriers	6 00
Amount	$18 00

THE STATE OF OHIO, *Scioto county, ss.*

I, John R. Turner, Clerk of the Supreme Court of the State of Ohio, in and for said county, do certify that the foregoing, from the 12th page to the 49th page, are true copies of the patent, plats and descriptions, acts and ordinances of Congress &c., referred to in the several instructions asked in the 5th reason for a new trial in the foregoing record, as the same remain on the files of this court.

[SEAL.] In testimony whereof, I have hereunto set my name, and affixed the seal of our said court, at the town of Portsmouth, Ohio, this 1st day of May, A. D. 1838.

JOHN R. TURNER, *Clerk*.

Copy of records, &c. exclusive of plats and descriptions.

8,450 words	$8 45

Copy of township 2 plat and description.

36 sections, each 25 cents,	9 00
do do township 3,	9 00
8 sections from Scott's office, Laugham	2 00
do do do do Denny	2 00
3 sections, Dole's survey,	75
	$31 20

SAMUEL REED, Lessee, Plaintiff in Error,
vs.
WILLIAM MARSH, Defendant in Error,
In ejectment in the Supreme Court of Ohio.

And the said Samuel Reed, plaintiff below and plaintiff in error, by Thomas Scott his attorney, says, that in the record and proceedings aforesaid, and in the rendition of the judgment aforesaid, manifest error hath intervened to the great damage of the said plaintiff in error.

There is error in this, to wit, that the Supreme Court of the State of Ohio, being the highest judicial tribunal known to the laws of Ohio, rendered judgment in the cause aforesaid, against the said plaintiff in error, and in favor of the said defendant in error; whereas, by the laws of the United States, and by a due and proper construction thereof, the said Supreme Court of Ohio, the highest judicial tribunal of the State as aforesaid, should have rendered a judgment in the cause aforesaid, against the said defendant in error, and in favor of the said plaintiff in error, both parties claiming title to the land in dispute under and in virtue of said laws of the United States, and a due construction thereof.

2d. There is also error in this, viz:

The court aforesaid erred in overruling the motion for a new trial, and rendering a final judgment thereon, because the reasons assigned

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error, to the said supreme court of Utah directed, commanding, &c., and that supersedeas, &c. issue, and finally, that the judgment aforesaid, rendered as aforesaid, against the said plaintiff in error, may be by the plaintiff for a new trial, were, and are good and sufficient in law, to entitle the said plaintiff to a judgment in the original suit, and to a new trial in said Supreme Court.

3d. There is error also in this, viz:

The court, in overruling the motion for a new trial, virtually declared it as their opinion, and so decided, that the survey of the land in controversy, made and executed by the proper officer of the United States, under and in virtue of the act of Congress of the 18th May, 1796, and the corners and lines of the land in dispute, made as aforesaid in virtue of the act aforesaid, might be changed, altered, affected, and annulled, by the act of the surveyor general, or his deputies, acting under his orders, under and in virtue of the act of Congress of 1805, thereby annulling the acts of officers of the Federal Government done and performed under the act of 1796, aforesaid, and rendering useless and unavailable the mile corners and lines of the lands surveyed under and in virtue of that act of 1796.

4th. There is error also in this, viz:

The court erred in refusing to charge the jury, as requested by the plaintiff's counc*il*, in manner and form as set forth in the reasons for a new trial, all of which are referred to as part hereof.

5th. There is error also in this, viz:

The court erred in refusing to charge the jury that under and in virtue of the ordinance of the Congress, passed under the Confederation in May 20th, 1785, and the several acts of Congress recited as aforesaid, in the reasons aforesaid, offered to the court as aforesaid, for a new trial, and up*p*on which the instructions to the jury from the court aforesaid, were demanded by the said plaintiff in error, together with the duly confirmed copies of the several surveys made of said lands by the officers of the Government of the United States, in pursuance of said acts of Congress. The plaintiff in error was entitled to recover the land in controversy.

6th. There is also error in this, viz:

The court erred in refusing to charge the jury that the boundary lines marked and run by the deputy surveyor, Laugham, under the act of 1796, and the mile corners by him marked on said lands, and certified of record in the office of the surveyor general, and by him certified and sent to the Register of the Land Office, and Secretary of the Treasury, pursuant to said act of 1796, are the true lines and corners of said fractional sections Nos. 5 & 6, in town 2, range 21, and section Nos. 31, 32, in town 3, range 21, were the true line and corner of said sections, and that, therefore, the plaintiff in error was entitled to a verdict.

And because of other errors manifest on said record of proceedings and judgment in the case aforesaid:

Thereby the said plaintiff in error says he has sustained great damage, and he prays that the honorable, the justice of the circuit court of the United States for the 7th circuit and district of Ohio, would grant to said plaintiff the United States' most gracious writ of error, to the said supreme court of Ohio directed, commanding, &c., and that superceders, &c. issue, and finally, that the judgment aforesaid, rendered as aforesaid, against the said plaintiff in error, may be in all things reversed, set aside, and held for naught, and the said plaintiff in error restored to all the right thereby lost to him, &c.

THOS. SCOTT,
Attorney for Plaintiff in Error.

Clerk of C. Court fees
For writ of error,
Copy filing do and
Citation &c. $2 00.

Sam'l Reed Lessee Plff.
vs.
Wm. Marsh, Deff.
} In error.

Assignment of Errors,
T. SCOTT, for Plff.

I allow a writ of error in this case, the clerk will issue it on the applicants giving bond and security for the payment of costs &c., in the sum of five hundred dollars.

JOHN McCLEAN,
Justice Supreme Court U. States
and of the 7th Circuit.

20 Dec. 1837.

The United States of America,

The 7th Circuit and District of Ohio:

The Lessee of Samuel Reed, Plff.
vs.
William Marsh, Deff.
} In Ejectment.

William Marsh, the defendant in this cause, will take notice that a writ of error has been allowed and issued in the above cause, on the application of the plaintiff, to remove the above cause from the Supreme Court of the State of Ohio, sitting in the county of Scioto, in said State, and the record thereof, and the proceedings and judgment aforesaid therein had, to the Supreme Court of the United States, next to be held at the city of Washington, upon the errors in law assigned by the said plaintiff in error, upon the record and proceedings aforesaid.

You will, therefore, take notice that the cause aforesaid has been removed as aforesaid, on the writ aforesaid, and the errors aforesaid assigned, to the Supreme Court of the United States, next to be held at the city of Washington, when and where you may attend by yourself or council, to be heard therein.

Done at Columbus, Ohio, this 22d day of December, 1837.

JOHN McLEAN,
Justice Supreme Court U. States.

UNITED STATES OF AMERICA,
For 7th Circuit and District of Ohio:

I authorize Oliver Lindsey, Esq., Sheriff of Scioto county, to serve the within citation for me, and in my name, if need be, on the defendant, William Marsh, jun., and make due return thereof to the Supreme Court of the United States, as I might do.

JOHN PATTERSON,
Marshal of District of Ohio.

Columbus, 23d December, 1837.

I certify that on the 21st day of May, A. D. 1838, I served this citation on the defendant, William Marsh, resident in Scioto county, Ohio, by handing him a true copy of the within, and showing him the original citation, at the same time reading the original to him, and explaining the legal effects thereof.

J. PATTERSON,
Marshal D. O.
By his Deputy: M. BRADBURN.

Service $.
Copy.
Mileage.

THE UNITED STATES OF AMERICA:

To the Honorable the Judges of the Supreme Court of the State of Ohio, within and for the county of Scioto, in the District of Ohio, Greeting:

[SEAL.] Whereas, in the record and process, and also in the rendering judgment, in a certain action of ejectment, which was in the said court, between Samuel Reed's Lessee, plaintiff, and William Marsh, defendant, manifest error hath intervened, as it is said, to the great damage of the said plaintiff, as by his complaint we are informed, and we being willing that the error aforesaid (if any) be corrected, and full and speedy justice be done in this behalf to the said parties, command you that the record, process, and judgment aforesaid, with all things touching the same, under your seals, distinctly, and plainly, without delay, you send and certify to the Judges of the Supreme Court of the United States, on the first day of the next term of said court, so that the judgment aforesaid being inspected, the court may further, for correcting the error aforesaid, do that, which of right and according to law, ought to be done.

Witness the Honorable Roger B. Taney, Chief Justice of the United States of America, this 22d day of December, in the year of our Lord one thousand eight hundred and thirty-seven, and in the 62d year of the American Independence.

Attest: WILLIAM MINER, *Clerk.*